

# **THE FEDERAL VOTING ASSISTANCE PROGRAM**

**Eleventh Report**



**December 1977**

THE FEDERAL VOTING ASSISTANCE PROGRAM

ELEVENTH REPORT

December 1977

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Office of the Assistant Secretary of  
Defense (Public Affairs)

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## Chapter I

### INTRODUCTION

This Biennial Report is the eleventh in this series since the enactment of the Federal Voting Assistance Act of 1955, 42 U.S.C. 1973cc-1973cc-26 (Supp.V., 1976). It is required by Section 201 of the 1955 Act (42 U.S.C. 1973cc-11) and covers the period September 1, 1975 - August 31, 1977.

#### Outline of the Report

The remainder of this introductory section discusses the legislative background, organization, and operation of the Federal Voting Assistance Program. The next three chapters cover the areas required by the statutory reporting requirements:

(1) the administration of Federal responsibilities under the 1955 Act;

(2) the progress of the States in carrying out the recommendations contained in the Act; and

(3) statistical data relating to absentee voting.

The final chapter - "Additional Information" - is authorized, although not required, by the reporting requirement of the Act. This is the first time since 1971 that the Presidential designee has reported on "such other information as he may consider appropriate." Chapter V is included in order to inform the President and Congress of the need for reform of Federal absentee voting laws.

#### Background

##### Early Developments

The history of absentee voting in America predates the formation of the United States. A mechanism for electoral participation by eligible voters (at the time, white male property owners) unable to come to the polls on election day appears as far back as some of the early colonial codes.

The first major development in the expansion of absentee voting rights occurred during the Civil War, when mass conscription forced the States - both Union and Confederate - to consider the problem of voting



opportunities for large numbers of electors away from home. With few exceptions, most States enacted legislation that authorized one of two systems of absentee voting: voting "in-the-field" (unit commanders were designated to supervise polling places and transmit the tallies back to the States), or voting by proxy (absent voter designated an agent to vote on his behalf and in the manner directed).

After the end of the war, many State absentee voting laws lapsed. There was a revival of State activity in this area during the Spanish-American War and World War I, and it was during the latter conflict that legislation was introduced in Congress for the first time, to provide for some form of absentee participation by soldiers and sailors. However, this proposal was not enacted.

Between the World Wars, absentee voting again became a dormant issue, and there was little progress in expanding franchise opportunities for absent citizens.

#### Federal Legislation During World War II

The first Federal absentee voting law was enacted in 1942, Act of September 16, 1942, P.L. 712 (77th Cong.), ch. 561, 56 Stat. 753. It guaranteed the right to vote to armed forces members absent from their places of residence, in time of war, in Federal elections, if they could qualify under State law, and regardless of registration and poll tax requirements. It also provided a Federal post card application for absentee ballot, free postage for balloting materials, and directed the States to adopt certain specified absentee voting procedures. However, the law had almost no impact at all, since it was enacted only a few weeks before the 1942 general elections.

In 1944, the law was amended to replace the mandates with procedural recommendations that Congress hoped would be adopted by the States. Act of April 1, 1944, P.L. 277 (78th Cong.), ch. 150, 58 Stat. 136. The amendments also provided a Federal War Ballot to be used by timely applicants whose State ballots did not arrive by approximately 30 days before the general election. The use of this alternative voting mechanism was, however, conditional upon acceptance by the particular State, and the procedure did not prove very effective.

With the termination of hostilities, Congress again revised the 1942 law, Act of April 19, 1946, P.L. 348 (79th. Cong.), ch. 142, 60 Stat. 96, incorporating largely technical amendments.

#### The Federal Voting Assistance Act of 1955

The guarantee provisions of the Soldier Voting Act of 1942, as amended, were based upon the Congressional war powers. Consequently, the impending peace treaty with Japan would have the effect of repealing the Federal absentee voting rights guarantee. Motivated by this possibility and also by the fact that absentee voting opportunities for military personnel were non-existent in some States and prohibitively complex in many others, President Truman requested the American Political Science Association (APSA), in 1951, to study the problem and make recommendations. In early 1952, the results of the study and its recommendations for Federal legislation were endorsed by the President and transmitted to the Congress.

Three years later, the Federal Voting Assistance Act of 1955 became law. It contained a few of the APSA recommendations, but for the most part, was a reenactment of the recommendations of the 1942 law, as amended, omitting any language guaranteeing the right to register and vote absentee.

The Act recommended that the States enact specific absentee registration and voting legislation (or accomplish the same by administrative action), covering all elections, for the benefit of four general categories of voters:

(1) armed forces members in active service, and their spouses and dependents;

(2) merchant marine members, and their spouses and dependents;

(3) Federal government civilian employees outside the U.S., and their spouses and dependents residing with or accompanying them; and

(4) members of civilian service organizations affiliated with the armed forces, and their spouses and dependents.

In 1968, the law was amended, substituting "citizens . . . temporarily residing outside the . . . United States . . ." for categories (3) and (4), above.

In addition, the 1955 Act provides for overall administration by a Presidential designee, and tasks the heads of several named departments and agencies with specific responsibilities.

## The Federal Voting Assistance Program

### Organization

The 1955 Act directed the President to appoint the head of a Federal department or agency to coordinate Federal actions designed to assist absentee voters. President Eisenhower, by Executive Order No. 10646, 20 F.R. 8681 (Nov. 23, 1955), appointed the Secretary of Defense Presidential designee under the Act.

The Secretary of Defense has designated the Assistant Secretary of Defense for Public Affairs as Coordinator of the Federal Voting Assistance Program. The Federal Voting Assistance Division (FVAD) carries out this function under his direction. In addition to its government-wide coordination duties, FVAD is responsible for the Voting Assistance Program within the Department of Defense.

### Operation

The Presidential designee has overall responsibility for facilitating and coordinating such actions as may be required to carry out Federal responsibilities under the 1955 Act, as amended. In addition to this broad mandate, he is responsible for gathering absentee registration and voting information from each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of Guam and the Virgin Islands, and providing it to the Federal departments and agencies which in turn make it available to absentee voters. He is also responsible for submitting a biennial report (in odd-numbered years) to the President and Congress on the administration of the Federal Voting Assistance Program.

## Responsibilities of Executive Branch Departments and Agencies

### General Responsibilities

Executive Branch departments and agencies with employees overseas conduct their own individual voting assistance programs and make use of the informational materials prepared by the staff of FVAD. In addition to these internal programs, the Department of State, through its embassies and consulates, provides absentee voting information and assistance to U.S. citizens overseas and makes the diplomatic pouch available to them for the transmission of balloting materials back to the United States.

### Specific Responsibilities

The Department of Justice advises the Council of State Governments in the preparation of model legislation, as requested by the Presidential designee.

The U.S. Postal Service and other applicable departments and agencies facilitate the transmission of balloting materials between voter and election jurisdiction.

The General Services Administration prints the Federal Post Card Application for Absentee Ballot (FPCA) and distributes it to the Federal departments and agencies based upon requests made to the FVAD staff.

## Chapter II

### ADMINISTRATION OF FEDERAL RESPONSIBILITIES

The Federal Voting Assistance Program operates in two cycles; first, preparation for the election (even-numbered) year during the preceding (odd-numbered) year, and second, support of the absentee voting effort during the election year.

#### 1976

Because 1976 was a Presidential election year, additional emphasis was placed on voter information and support activities throughout the year. Each Executive department and agency was given sufficient copies of the updated Voting Assistance Guide (a book prepared by FVAD, listing absentee procedures for all the States and parallel jurisdictions) and information posters to meet its particular needs. These documents were, in turn, distributed to agency personnel who had been appointed voting assistance counselors to aid eligible employees and their families to vote. In addition, information was updated as necessary during the election year and distributed to the departments and agencies by FVAD.

The Department of State not only conducted voting assistance programs at all embassies and consulates for its employees, but also for other civilians abroad not served by military installations. These programs consisted of placing information in local media to advise voters of their rights as well as personal counseling of voters at the embassies and consulates.

This contact with voters revealed a major weakness in the absentee voting system. Civilians abroad as well as many local election officials in the United States were very confused by the fact that there were often two sets of laws affecting the right of civilians to vote absentee: State election law and the Overseas Citizens Voting Rights Act of 1975.

FVAD also assisted all of these categories of voters, through the departments and agencies, with specific problems concerning absentee voting and obtaining ballots.

Within the Department of Defense (whose eligible employees - both military and overseas civilian - and affiliates comprise about 70 percent (approximately 3.5 million) of the persons covered by the 1955 Act), FVAD

administered a similar, but more intensive, Voting Assistance Program. Department of Defense (DoD) Directive 1000.4, "Absentee Voting," (July 10, 1971) regulates the Federal Voting Assistance Program within DoD.

A "Voting Action Plan" was promulgated throughout all DoD components. It was the objective of this plan to assist all appropriate persons covered by the 1955 Act. A senior officer of General or Flag rank in each military service was designated as the Senior Military Voting Representative to manage the voting program in his Service. In addition, voting officers or counselors were designated at each level of command. Voting assistance personnel were provided with or had easy access to all of the following information support materials prepared by FVAD:

- The 1976 Voting Assistance Guide;

- Voting Information and other posters;

- Fact sheets updating information throughout the election year;

- A film entitled "Have Your Say," produced by the Office of Information for the Armed Forces and designed to instruct Service members on the proper method of applying for an absentee ballot;

- A briefing paper on potential questions and problems likely to arise in the election year; and

- An outline for a recommended command information program.

Information emphasizing State primary elections was featured through multi-media release through the Office of Information for the Armed Forces. These efforts were supplemental to the information contained in the Voting Assistance Guide.

Emphasis was also placed on early registration. February was designated "Military Voter Registration Month" to encourage registration in those States where registration was required prior to applying for an absentee ballot.

In-hand delivery of the Federal Post Card Application for Absentee Ballot (FPCA) to Service members outside of the United States was conducted by August 15, and by

September 15 for those serving within the United States. September 21 was designated "Armed Forces Voters Day" to emphasize the need to apply early for an absentee ballot.

In addition, each Service maintained a "Voting Action Line" to enable its members to contact FVAD through their respective Service headquarters with specific questions regarding absentee registration and voting. This device was used extensively throughout the year, and in particular, during the 60 days immediately preceding the November election. In acting as an "ombudsman," FVAD assisted thousands of voters to obtain and vote their ballots.

When it became apparent in 1976 that many ballots would be mailed late due to ballot access challenges, the U.S. Postal Service, at the request of the Department of Defense, agreed to expedite handling of mail going to and from military postal system facilities.

#### 1977

The primary emphases of the Voting Assistance Program during 1977 have been on gathering information from the States regarding their election laws, and to recommend improvements in Federal laws addressing absentee voting. In addition, voters were provided with information on special elections to fill U.S. Congressional seats and State elections for officials holding offices with State-wide jurisdiction.

The ongoing effort of FVAD to work with State officials to improve their absentee voting procedures and instruct them on the interaction of Federal and State laws continued throughout the year. This work was carried out through visits to the States and attendance at national meetings of election officials.

Particular attention was directed at preparing a proposal to recodify the Federal Voting Assistance Act of 1955, as amended (42 U.S.C. 1973-1973cc-26) and the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-1973dd-5) in a single comprehensive Federal absentee voting law. The purpose of the recodification is to overcome inconsistencies between the two Acts and provide basic uniform procedures for absentee voters in Federal elections. The proposed recodification is currently being commented upon by Executive Branch departments and agencies prior to submission to Congress.

The Deputy Coordinator of the Federal Voting Assistance Program testified before the Senate Committee on Rules and Administration in connection with Senate Bill 703 and explained the need for overall changes in Federal laws governing absentee voting.

### Plans for 1978

Based on its observations during the 1976 election year, FVAD is now trying and will continue to attempt to overcome the most serious problems perceived in the Voting Assistance Program.

### Improving Federal Absentee Voting Laws

FVAD will continue to recommend much-needed reform legislation, specifically recodification of existing Federal absentee voting laws, in order to eliminate overlapping and conflicting provisions which confuse voters and election officials alike, and to provide equal opportunities to similarly situated citizens to participate in elections. Chapter V explains this objective in greater detail.

### Improving Administration of the Absentee Voting Process

Increasingly, FVAD is becoming active in assisting State and local governments to improve their absentee voting laws and procedures, and advising them of the impact of Federal laws on their election systems. This is accomplished through advice to officials on how existing laws and regulations should be amended, review of proposed amendments thereto, and consultation with State officials. FVAD staff members also attend training sessions for State election officials to explain the interrelationship of Federal and State laws as well as procedures used in other States.

In order to expand upon this advisory role, FVAD will use the various means developed by State officials for communicating with their local election officials. Further, appropriate pages of the 1978 Voting Assistance Guide will be sent to each local election official in order to inform him of precisely what his absentee voters are being told is the procedure for that particular jurisdiction.

Finally, the Division has begun to develop working relationships with various State election law reform commissions, generally bodies charged by State legislatures to review and make recommendations to improve State electoral systems.



## Improving Public Awareness of Absentee Voting Rights, Opportunities, and Procedures

The voting information aspects of the Federal Voting Assistance Program receive by far the greatest attention from absentee voters. FVAD prepares the Voting Assistance Guide, a compendium of the absentee registration and voting laws of all of the States and other comparable jurisdictions. This compendium is then distributed to all Federal departments and agencies which have members or employees who can vote by absentee process. It is also available to civilians overseas and has proven to be the single most valuable aid available to absentee voters.

Because State election laws are constantly changing, it is necessary to revise the Voting Assistance Guide every two years. In addition, FVAD conducts surveys of actual procedures used in administering elections at the county and city level. It is the experience of the Division that these procedures vary greatly within the States. Therefore, in order to provide voters with the broadest procedural guidelines possible, the Guide is keyed to State rather than local practice.

Gathering and disseminating absentee voting information is the single most time consuming activity of FVAD. In preparing for 1978, this has become even more true. Heretofore, the Guide was revised by requesting each State to correct existing information about its election laws and procedures contained therein. Experience gained during 1976 indicated that this method was not wholly satisfactory. In the years since the first compendium was produced, changes in election law and electoral systems have been massive. Consequently, the FVAD staff undertook a complete legal review of all State constitutions, election codes, and other relevant law. Where the laws were unclear, ambiguous, or silent, the chief election officials of each State were questioned in order to obtain their interpretation and certification of the information to be published. The data is now being put into a format suitable for use by absentee voters and will be distributed to Federal departments and agencies. Civilians not affiliated with the Federal government will also be given copies of the 1978 Guide. In addition, because of the overlap in categories of persons covered by the 1955 Act and the Overseas Citizens Voting Rights Act of 1975, information on the latter will be included for each State.

Since the Guide is designed primarily for use by voting assistance personnel, the 1978 version will contain training material which, hopefully, will prepare them very well for this responsibility, and also enable counselors to answer most substantive and procedural questions raised by prospective voters.

FVAD is considering additional ways to improve voter assistance. Chief among these is the instituting of formalized training of voting assistance officers and counselors. FVAD has concluded that such a training program is essential to the smooth operation of the absentee voting process. At this time, prototype training techniques (such as written materials, cassettes, testing, video tape, lectures and seminars) are being studied for possible application to the Federal Voting Assistance Program. FVAD would prepare and/or supervise the preparation of the materials for distribution to voting assistance personnel. It is anticipated that a training program, on a limited experimental basis, will be tested during the 1978 elections.

### Chapter III

#### STATE PROGRESS IN IMPLEMENTING THE 1955 ACT

##### Introduction

Section 1973cc-11 of Title 42, United States Code, directs the Presidential Designee to report State progress in carrying out the recommendations of the 1955 Act.<sup>1</sup>

##### Research Methodology

First, FVAD examined the 1955 Act recommendations and broke them down into specific suggestions. Then, State constitutions, election codes, relevant court cases, and available administrative regulations and opinions were studied.

Where evidence for or against compliance was not found, or where State law was ambiguous or unclear, individualized questionnaires were sent to State chief election officials in order to obtain clarification. One month later, telephone calls were made to States that had not yet responded. These were followed by a second mailing of questionnaires to States that so requested. Finally, two followup calls were made requesting the return of questionnaires.

Timely responses were received from 43 States.<sup>2</sup> We also requested that respondents cite their legal authority for each answer. Unfortunately, 30 percent of the responses were not supported by legal authority.

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<sup>1</sup>"State" includes the 50 States, the District of Columbia, the Territories of Guam and the Virgin Islands, and the Commonwealth of Puerto Rico.

<sup>2</sup>The 11 States that did not respond in time were: Alaska, Delaware, District of Columbia, Kansas, Louisiana, New York, Ohio, Texas, Vermont, Virginia, and Puerto Rico. Accordingly, compliance data for these States for certain recommendations is based upon FVAD's interpretation of the law. In addition, approximately 10 percent of the survey questions were not answered. Again, this data is, of necessity, presented as interpreted by FVAD.

## How the Information is Presented

We were confronted with considerable difficulty in undertaking and presenting the results of this study. State absentee registration and voting systems are rarely single or unitary processes. Not only do absentee procedures vary from State-to-State, but they also differ within almost every State, depending upon such variables as category of person, nature of absence, location of the absent voter, and type of election.

For each variable, there may be different laws, procedures, forms, requirements, and deadlines. There are also definitional variations that further complicate analysis. For example, State A may expressly define "armed forces" to mean army, navy, air force, marines, and coast guard; State B may exclude coast guard from the definition; and State C may not define the term at all.

This Report summarizes the results of our detailed analysis of the status of each recommendation in each State. It is not possible within the context and length limitations of this Report to present the manner in which each State has implemented each recommendation. However, as an example of the complexity and diversity typical of the absentee voting process, we have reported the status of one recommendation (number 7) in detail.

Following a synopsis of the particular recommendation (see Appendix for precise language), the number of States fully adopting the recommendation is reported. This is followed by a comment, if necessary.

## Recommendations

1. Right To Vote Absentee. That States permit every otherwise eligible person listed below who is absent from his place of voting residence to vote absentee in any primary, special or general election:

(1) Armed Forces members<sup>3</sup> in active service and their spouses and dependents.

(2) Merchant Marine members and their spouses and dependents.

(3) U.S. citizens temporarily residing outside the territorial limits of the U.S. and the District of Columbia.

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<sup>3</sup>The 1955 Act defines "Armed Forces Members" as members of the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and Coast and Geodetic Survey, i.e. the uniformed services.

<u>Category</u>	<u>Number of States Adopting Recommendation #1</u>
Absentee Registration: Armed Forces Member	41 <sup>4</sup>
Spouse	34
Dependent	33
Merchant Marine Member	48
Spouse	40
Dependent	40
Citizen Overseas	35
Absentee Voting: Armed Forces Member	47
Spouse	38
Dependent	37
Merchant Marine Member	46
Spouse	38
Dependent	38
Citizen Overseas	42

States that do not define the terms "Armed Forces" or "Merchant Marine" are presumed to adopt the definitions appearing in the 1955 Act (42 U.S.C. 1973cc-21). States that waive registration are included among those permitting absentee registration.

2. Accept Federal Post Card Application for Absentee Ballot (FPCA). That States accept the FPCA as an application for

- (1) registration (where required); and
- (2) absentee ballot.

Twenty-five States have adopted this recommendation for those persons listed in Recommendation 1 above, whom they permit to register or vote absentee. Other States authorize the FPCA for certain categories, but not for others. A few States permit use of the FPCA to apply for a ballot, but not for registration.

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<sup>4</sup>All States except Vermont (excludes Marine Corps) permit members of the four major Services to register and vote absentee.

3. Simplified Registration. That States adopt one of the following registration methods for covered categories:

- (1) waive registration.
- (2) accept FPCA as simultaneous application for registration and ballot.
- (3) mail State registration forms, if required, to and from applicant with ballot.

Twenty-nine States have adopted one or more of these registration methods for all the covered categories. Several States require two FPCAs, one to apply for registration and when that has been completed, a second to obtain a ballot. Others will accept one FPCA as a simultaneous request for both registration and ballot, but require a state registration form to be returned prior to the close of registration (generally 30 days before the date of the election), or in a separate envelope. There are also substantial variations within States. Some States have adopted one of the recommended registration methods for one covered category (or a subcategory thereof), but require other covered categories (or subcategories) to use more burdensome registration procedures.

4. Late Returnees. That States permit persons honorably discharged from the Armed Forces or who have terminated their service or employment too late to register in person, to vote at the next election.

Eight States have adopted this provision without qualification. In addition, 14 States have adopted more restrictive variations of this proposal (restricted as to registration deadlines before the election, eligible persons, type of elections, or a combination thereof).

The significance of this recommendation is no longer as great as at the inception of the Federal Voting Assistance Program. In 1955, many States required, as a qualification for voting, that prospective voters meet a "durational residency requirement," i.e., that they reside in the State and/or election district for prescribed periods of time before an election. These often lengthy durational residency requirements were struck down by the Supreme Court in Dunn v. Blumstein, 405 U.S. 330 (1972). With few exceptions, States now register voters up to 30 or fewer days before an election.

Further reducing the significance of the Late Returnee provision is the availability of absentee registration for many voters.

5. Free Postage. States and covered voters may mail balloting materials free of U.S. postage, including air mail postage, provided the States adopt recommended ballot envelope indicia.

Thirty-five States have adopted the free postage provision for those covered persons granted the right to vote absentee. Five States use free postage for some, but not all, covered categories. A few States take advantage of free postage for outgoing mail, but require the voter to pay for the return of the voted ballot.

6. Immediate Response. That State and local election officials be instructed to mail balloting materials immediately upon receipt of the FPCA.

Twelve States have so instructed their election officials. An additional two States have adopted this provision, but limit it to only certain categories of covered voters.

The greatest cause of absentee voter disenfranchisement is administrative delay in processing applications and mailing balloting materials. This provision has had little effect in expediting the absentee process.

7. Timely Ballot Mailing. That States make absentee ballots available for mailing to voters as soon as practicable before the State ballot counting deadline.

<u>State</u>	<u>Election (# Days Before Ballot Counting Deadline Ballot Available)</u>			
	<u>General</u>	<u>Primary</u>	<u>Special</u>	<u>Other</u>
Alabama	21	21	21	
Alaska <sup>5</sup>	-	-	-	
Arizona	As Soon As Possible (ASAP)			
Arkansas	25	No More Than 25	25	7 (Runoff)

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<sup>5</sup>Unknown

California <sup>5</sup>	-	-	-	
Colorado	20	20	30	
Connecticut	30	21	30	
Delaware	44	44	44	
District of Columbia <sup>5</sup>	-	-	-	
Florida	Whenever Printed			
Georgia	21	21	ASAP	ASAP
Guam	25	25	25	
Hawaii	10	10	10	
Idaho	Whenever Printed			
Illinois	45	45	45	
Indiana	59	30	59	
Iowa	40	40	40	
Kansas <sup>5</sup>	-	-	-	
Kentucky	15	15	2	
Louisiana	20	20	20	
Maine	30	30	30	
Maryland	"Sufficient Days Before Elections" <sup>6</sup>			
Massachusetts	"21 Days, Hopefully" <sup>6</sup>			
Michigan	42	20	20	
Minnesota	15	15	15	
Mississippi	Within 28 1/2 Days			

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<sup>6</sup>Quoted verbatim from survey response.



Missouri	ASAP	-7	-5
Montana	ASAP	20	ASAP
Nebraska	36	36	36
Nevada	25	25	25
New Hampshire	14	Prescribed by Secretary of State	
New Jersey	34 or As Soon As Practicable After 34th Day		
New Mexico	49	42	35
New York	25	25	12
North Carolina	59	59	59
North Dakota	20	20	20
Ohio <sup>8</sup>	60/45	60/45	60/45
Oklahoma <sup>9</sup>	15/30	15/30	15/30
Oregon	No Later Than (NLT) 20	NLT 20	NLT 20
Pennsylvania	NLT 10	NLT 10	NLT 10
Puerto Rico <sup>5</sup>	-	-	-
Rhode Island	18	18	18

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<sup>7</sup>Primary - within 20 days after last Tuesday in April of even-numbered years; 1978 Primary scheduled for August 8. For spouses and dependents of armed forces members, members of the merchant marine and their spouses and dependents, and U.S. citizens temporarily residing overseas, ballots are available 30 days before primary election day (29 days before counting deadline).

<sup>8</sup>Sixty days for armed forces members and their spouses; 45 days for all others.

<sup>9</sup>Fifteen days for voters within the U.S.; 30 days for voters outside the U.S.

South Carolina	30	30	30	
South Dakota	15	15	15	
Tennessee	30	30	30	
Texas	20	20	20	
Utah	15	15	15	
Vermont	20	20	20	12 (Town)
Virgin Islands	15 Days, If Possible			
Virginia	40	40	40	
Washington	25-29 <sup>10,11</sup>	35	5	
West Virginia	30	30	30	
Wisconsin	21	21	21	
Wyoming	25	25	25	

As the table above indicates, few States have adopted the recommendation to prepare ballots early enough to insure their return in time to be counted.<sup>12</sup> The table also typifies the non-uniformity and diversity of existing absentee voting procedures.

8. Oaths. That States permit required oaths to be administered and attested by various designated persons.

<u>Witnessed Oaths Required On -</u>	<u># States Requiring Oath</u>	<u># States Adopting Recommendation #8</u>
Registration Form	24	12 <sup>13</sup>
Ballot Application	16	6 <sup>13</sup>
Voted Ballot or Ballot Envelope	30	16 <sup>13</sup>

<sup>10</sup>Legal authority for this deadline is "custom."

<sup>11</sup>Voted ballots must be postmarked by election day.

<sup>12</sup>Experience indicates that an absolute minimum of 25 days ballot round-trip time is essential to insure that the ballot will be counted.

<sup>13</sup>Adopted Recommendation #8 or a similar provision.

No oaths are required at any stage of the absentee process in 13 States.

9. Statistical Data. That the States provide the Presidential Designee with appropriate statistical data to assist him in compiling comprehensive information about 1955 Act operations.

Thirteen States compile statistics on absentee voting. These statistics, however, generally encompass all persons who vote other than at the polls on election day, and therefore, are of limited use to the Federal Voting Assistance Program.

10. Installation Resident Voting. That States permit otherwise eligible armed forces members, their spouses and dependents residing on military installations in a State to register and vote in any election in the State.

Thirty-six States are clearly in compliance with this recommendation. Seven States are clearly not in compliance.

Seven States that were queried on this issue did not respond to this question, and the affirmative answers of four States directly conflict with their current laws.

It would appear that following the Supreme Court's decision in Evans v. Cornman, 398 U.S. 419 (1970),<sup>14</sup> this recommendation should have become mandatory.

11. Technical Recommendations. Sealing ballot envelope; reducing size and weight of balloting materials; including with ballot, instructions as to writing instrument to be used to mark ballot.

Only a few States have adopted the first proposal. The latter two proposals have been adopted by most States.

## Conclusion

In a 1952 message to Congress accompanying the proposals that eventually evolved into the 1955 Act, President Truman stated that despite the mandates and later recommendations of the then 10-year old Soldier Voting Act, many States still had not afforded covered persons adequate absentee voting opportunities. Today, a quarter of a century later, the same statement can be made with equal authority.

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<sup>14</sup>The Court held that residents of a Federal installation are deemed residents of the State within which the installation is situated for purposes of acquiring voter eligibility.

## Chapter IV

### 1976 GENERAL ELECTION STATISTICS

During and after the November 1976 election, three surveys were conducted among persons covered by the 1955 Act. The surveys were designed to achieve four objectives:

1. To measure and analyze voter participation.
2. To discern trends in voting behavior.
3. To assess the effectiveness of the Federal Voting Assistance Program.
4. To discover ways to improve Program efforts.

One survey was directed at persons affiliated with the Federal government. A parallel poll elicited similar information from United States citizens residing outside the United States. The third survey - much more limited in scope - was conducted to gauge the impact of anticipated delays in mailing ballots to absentee voters.

Statistical data from all three surveys appears in this section. Information derived from each survey is presented separately.

#### Persons Affiliated With Federal Government

##### Introduction

A sample of military personnel worldwide, members of the Coast Guard, and Federal civilian employees residing outside the United States ("Federal civilians") were surveyed following the November 1976 election. Questionnaires were distributed to a random selection of 20,000 people. Sixty-three percent of those surveyed responded.

Unless otherwise indicated, data is based on "eligible" respondents. An eligible respondent is one who was both a United States citizen and at least 18 years old on November 2, 1976.

This subsection will emphasize the military electorate. The best information available is that related to military respondents. They represent the largest category of persons covered by the 1955 Act. In addition, it is a finite group, easy to locate, and about whom a considerable amount of demographic data is available.

This affords an ample basis for comparison to the national civilian electorate. Finally, the military electorate has been surveyed regularly for more than 30 years.

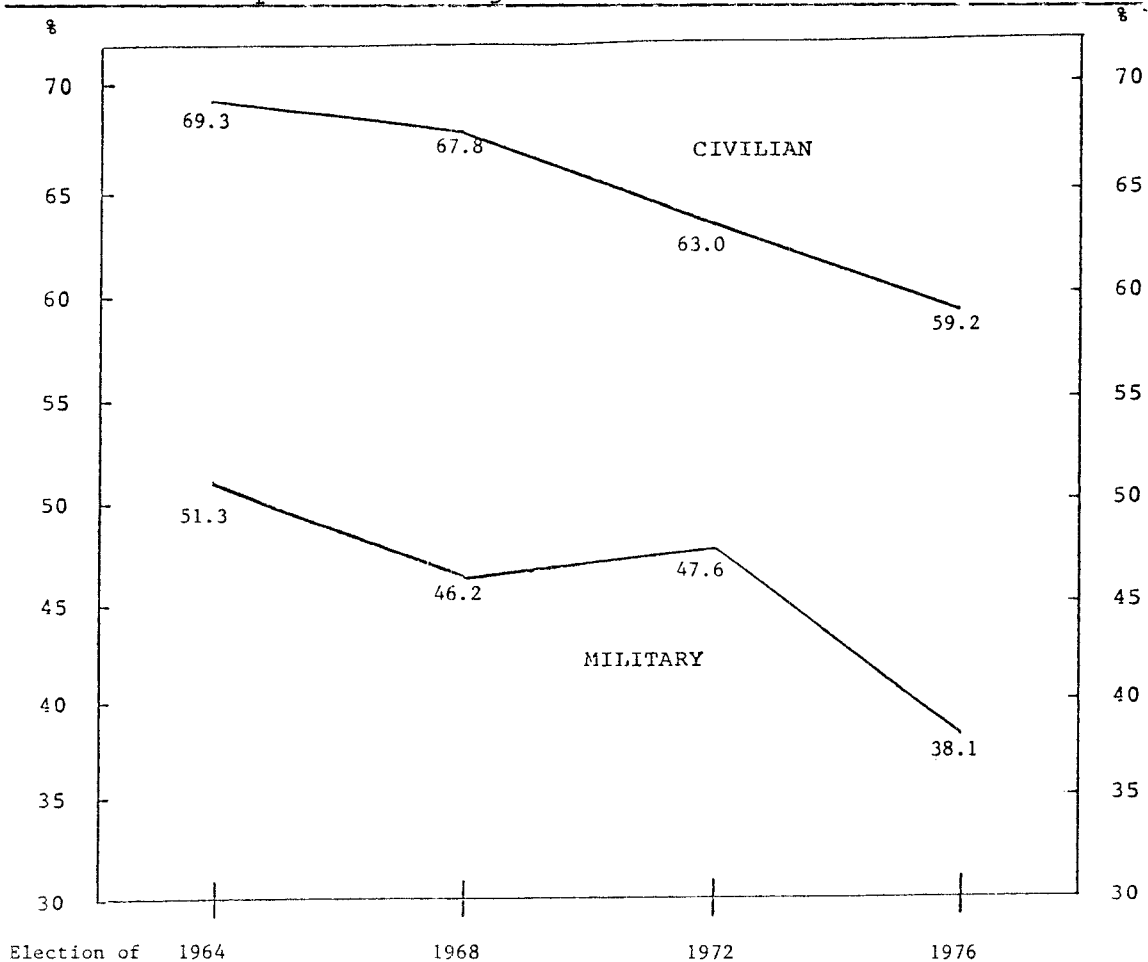
As a result of the information available, FVAD has attempted to draw a demographic picture of the military voter and his civilian counterpart. The resulting picture is a much more accurate reflection of military voter participation than has been available heretofore.

### Statistical Data

#### Voter Participation

Approximately 2,000,000 members of the armed forces were eligible to vote in November 1976. Of these, 38.1 percent report voting.<sup>1</sup>

FIGURE 1: Reported Voting in Recent Presidential Elections



<sup>1</sup>Major Findings from the 1976 Post-Election Survey -  
Form A: A Survey of U.S. Military Personnel and Federal  
Civilian Employees Assigned Outside of the United States,  
prepared by the Defense Manpower Data Center Survey Branch  
(Washington, D.C. 1977), p.5.

SOURCES: Civilian Voting - U.S. Bureau of the Census, Current Population Reports, Series P-20, No. 304, "Voter Participation in November 1976," U.S. Government Printing Office, Washington, D.C., 1976; Military Voting (1964-1972); The Federal Voting Assistance Program, Ninth Report, prepared by Department of Defense Office of the Assistant Secretary of Defense (Manpower & Reserve Affairs) (Washington, D.C., 1973), p.17; Military Voting (1976) - Major Findings from the 1976 Post-Election Survey - Form A: A Survey of U.S. Military Personnel and Federal Civilian Employees Assigned Outside of the United States, prepared by the Defense Manpower Data Center Survey Branch (Washington, D.C., 1977), p.5.

As Figure 1 illustrates, the trend of military voting generally follows the civilian trend. When it has not, this has been, in part, because of the uneven pace of State absentee election process reform.

Absentee voting is, by nature, inherently more difficult than voting at the polls. It is therefore, important to compare the two electorates in terms of the incidence of absentee participation. In 1976, in the 11 States that reported statistics on absentee voting, 4.7 percent of their voters voted absentee.<sup>2</sup> This compares with 80 percent of reported military voters that voted by absentee process.<sup>3</sup> The difficulties of voting absentee are responsible, in part, for the lower reported participation rate of the military electorate.

38.7 percent of all Coast Guard members report voting, two-thirds of them by absentee ballot.<sup>4</sup> The reported voting rate for Federal civilians was 43.5 percent, with over 90 percent voting absentee.<sup>5</sup>

It is also inaccurate and unfair to compare absentee voting with voting at the polls for another reason - the risk of failure inherent in attempting to negotiate the absentee process. Over 20% of the military applicants for absentee ballots were unable to vote because they either received their ballots too late to return them in time to

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<sup>2</sup>Votes Cast by Absentee Ballot in the 1976 General Election (Available Data), prepared by Virginia Graham, Congressional Research Service (Washington, D.C. 1977).

<sup>3</sup>Survey Branch, Form A, p.5.

<sup>4</sup>Ibid.

<sup>5</sup>Ibid.

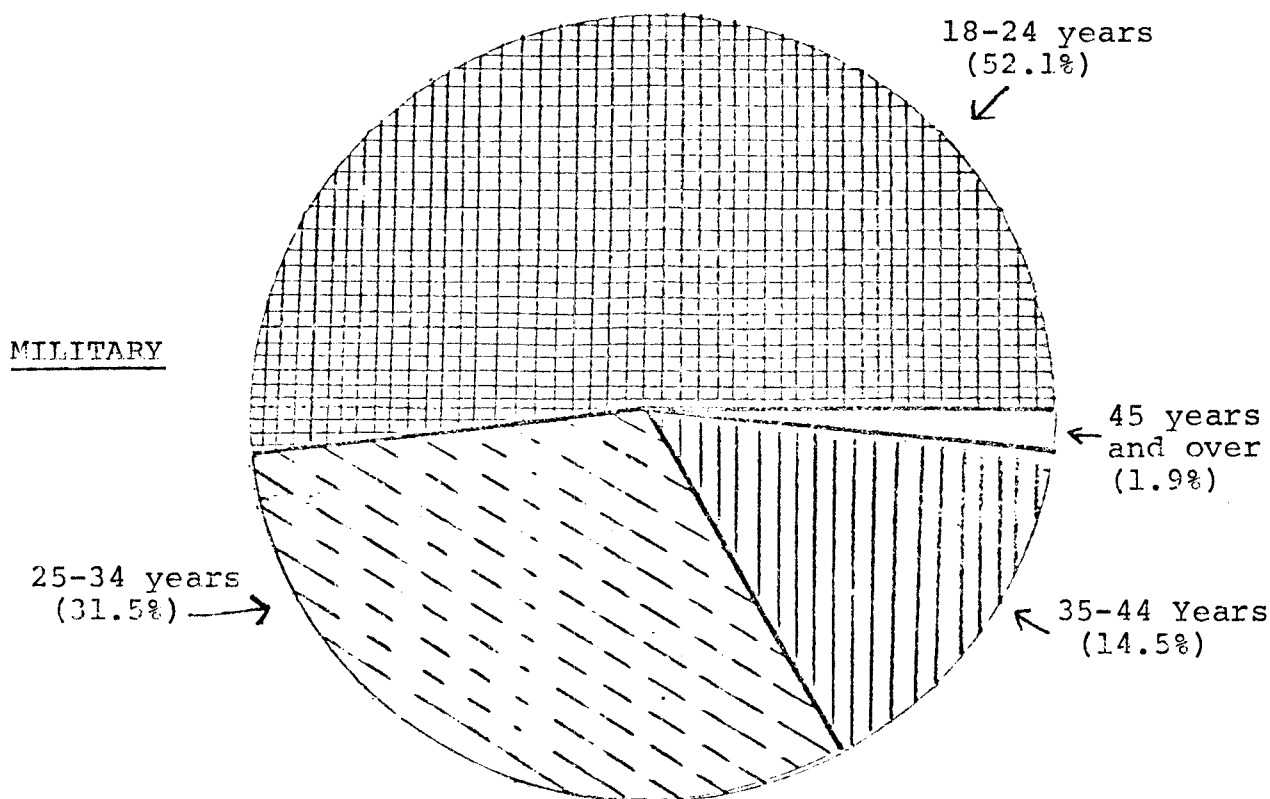
be counted, or they did not receive them at all.<sup>6</sup> If these "attempted voters" are added to those who report having voted, the more accurate reported military participation rate is 46 percent. It is this figure that should be compared with the civilian electorate tally, since the intent and effort on the part of the would-be absentee voter is at least equal to that of his polling place counterpart.

### The Demographics of Voting

Many studies of electoral participation have shown the impact of demographic factors on voting in U.S. elections. The factors with the most significant impact for the purpose of comparing the military and civilian electorates are age, mobility, race, and legal residence. Employing these four characteristics, FVAD has attempted to construct a composite of both the military and civilian voter in the statistical presentation that follows:

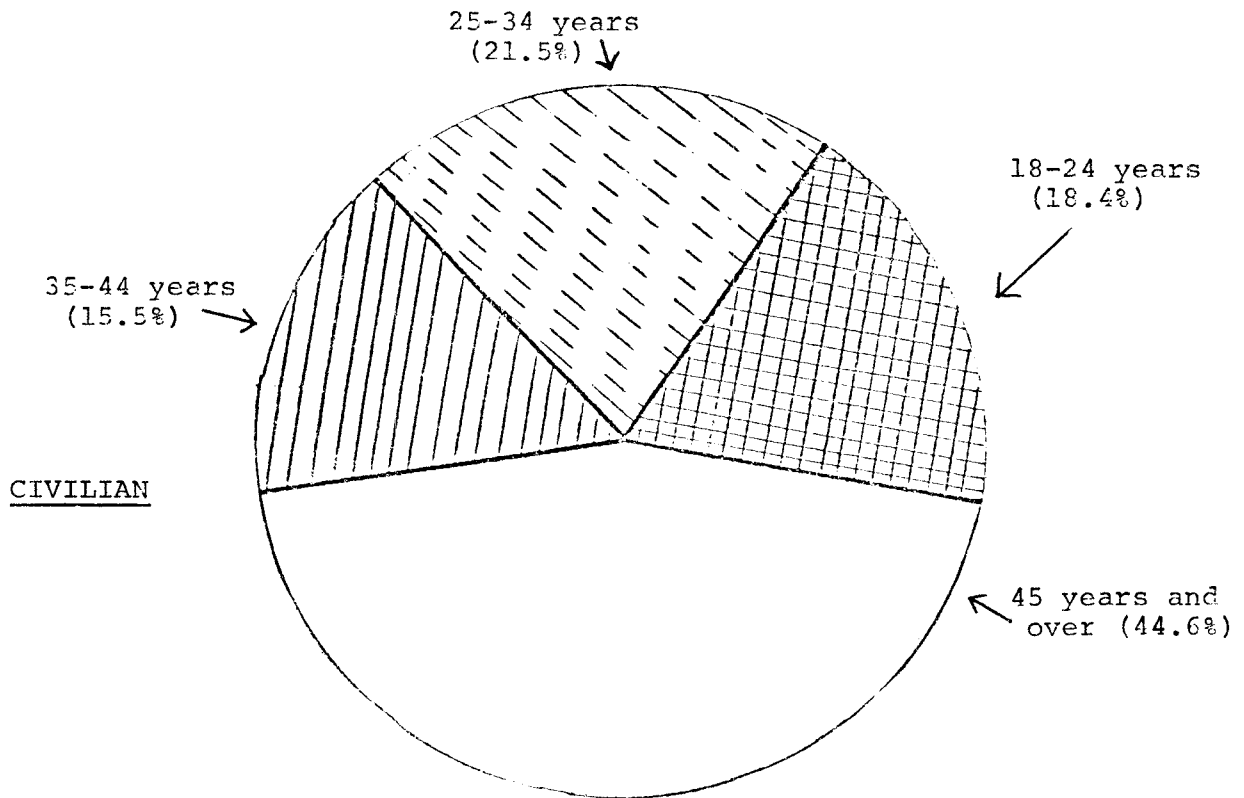
### Age

FIGURE 2: Age Distribution of Eligible Voters in 1976



<sup>6</sup>Ibid.

SOURCE: Memorandum of 28 June 1977 for Federal Voting Assistance Division, prepared by Defense Manpower Data Center Survey Branch (Washington, D.C., 1977), Table A-1.



SOURCE: Bureau of the Census, Current Population Reports, Series P-20, No. 304, "Voter Participation in November 1976," U.S. Government Printing Office (Washington, D.C., 1976), p.5.



Figure 2 illustrates the enormous age difference of the two electorates. The preponderance of youth among military eligible voters contrasts sharply with the civilian electorate, where almost one-half of the eligible voters were older than virtually all armed forces eligibles.

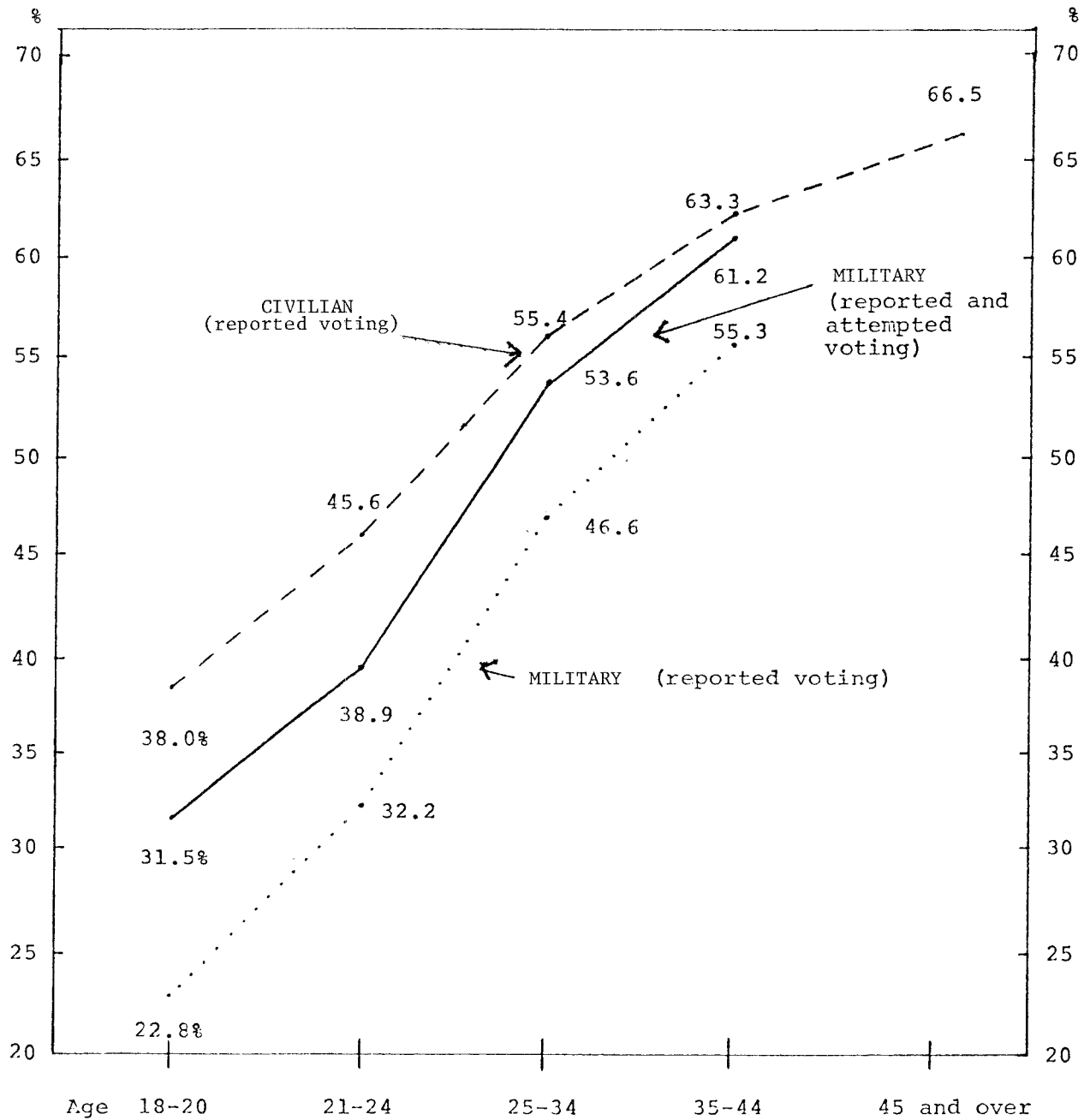
Over 80% of the military electorate is under 35 years old, the segment of the population with the lowest participation rate. This compares to the less than 40% of the civilian electorate that falls within this age group.

FIGURE 3: Median Ages of Eligible and Reported Voters in 1976

	<u>Eligible Voters</u>	<u>Reported Voters</u>
Military	23.9 years	27.2 years
Civilian	41.5 years	45.1 years

SOURCES: Military - Defense Manpower Data Center Survey Branch; Civilian: "Eligible Voters" - Larry Suter, Population Division, U.S. Bureau of the Census; Civilian: "Reported Voters" - U.S. Bureau of the Census, Current Population Reports, p.3.

FIGURE 4: Reported and Attempted Voting by Age in 1976



SOURCE: Civilian - U.S. Bureau of the Census, Current Population Reports, p.3; Military - Survey Branch Memorandum of 28 June 1977, Table A-2b.

### Mobility

While available data illustrating the relative mobility of the two electorates and the impact of mobility on voting is not precisely comparable, it is nevertheless revealing.

Slightly more than one-sixth of the civilian electorate moved from one residence to another in the 12 months before the November 1974 election.<sup>7</sup> Only 22.4 percent of these persons reported participating in 1974.<sup>8</sup> On the other hand, the 48 percent of the civilian electorate that resided in one place for more than 6 years reported voting at a rate of 58.2 percent.<sup>9</sup>

The negative impact on voting of changing residence close to an election is also reflected among military voters. Recent arrivals are less likely to vote than persons who have been stationed in one place for a longer period of time.<sup>10</sup> Since frequent movement is a fact of military life, the significance of the relationship between mobility and voting is very great.

### Race

FIGURE 5: Racial Composition of Electorates in 1976

	<u>Black (%)</u>	<u>White (%)</u>	<u>Total (%)</u>
Military	15.1	84.9	100.0
Civilian	10.1	89.9	100.0

SOURCES: Civilian - U.S. Bureau of the Census, Statistical Abstract of the United States: 1976 (97th edition) (Washington, D.C., 1976), p.27; Military - Defense Manpower Data Center Survey Branch

<sup>7</sup>U.S. Bureau of the Census, Statistical Abstract of the United States: 1976 (97th edition) (Washington, D.C. 1976), p.468.

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

<sup>10</sup>Memorandum of 28 June 1977 for Federal Voting Assistance Division, prepared by Defense Manpower Data Center Survey Branch (Washington, D.C., 1977), Table A-5b.

Voting behavior is also linked to race. In 1976, the reported national voting rates for whites and blacks were 60.9 percent and 48.7 percent, respectively.<sup>11</sup> It is possible that racial composition may impact similarly on military voting participation.

#### Region

FIGURE 6: Legal Residence of Eligible Voters in 1976

	<u>Region</u>		
	<u>South (%)</u>	<u>North and West (%)</u>	<u>Total (%)</u>
Military	35.4	64.6	100.0
Civilian	31.1	68.9	100.0

SOURCES: Military - Defense Manpower Data Center Survey Branch; Civilian - U.S. Bureau of the Census, Statistical Abstract, p.28.

FIGURE 7: Civilians Reporting Voting by Legal Residence in 1976 (%)

North and West	61.2
South	54.9

SOURCE: U.S. Bureau of the Census, Current Population Reports, p.1.

Southerners report voting at a lower rate than persons whose voting residence is in the North or West. The military electorate is proportionately more "Southern" in character than the national electorate. Therefore, it is possible that this characteristic also affects military participation.

<sup>11</sup>U.S. Bureau of the Census, Current Population Reports, Series P-20, No. 304, "Voter Participation in November 1976," (Washington, D.C., 1976), p.1.

## The Composite Eligible Voter - A Comparison<sup>12</sup>

The typical eligible civilian voter is middle-aged, white, from the North or West, and has lived at his current address for six or more years, all characteristics associated with relatively high voter participation.

The typical eligible military voter, however, is very young, less likely to be white, more likely to be from the South, and very likely to have moved to a new address close to election day. These characteristics are all associated with low voter participation. Unlike his civilian counterpart, he also faces the additional obstacle of voting by absentee process, which requires him to begin thinking about and planning for an election very early, obtain the proper forms, seek assistance to complete them properly, exchange correspondence with State and/or local election administrators at least twice, and hope that his election jurisdiction and the mails get his application, ballot, and other necessary documents to their appointed destinations in time to meet the various deadlines that apply.

## Psychological Factors Affecting Participation

### Voter Interest

Respondents were also asked about their interest in the 1976 elections. 70.1 percent of the Federal civilians said they were "very interested."<sup>13</sup> The corresponding response rate for the armed forces was only 52.1 percent,<sup>14</sup> and even lower for the Coast Guard - 46.1 percent.<sup>15</sup> These figures indicate a strong strain of voter apathy running through the electorate.

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<sup>12</sup>Other demographic characteristics - such as education and sex - are not discussed because they are either not statistically significant for voting, or because the two electorates are statistically similar.

<sup>13</sup>Survey Branch, Form A, p.30.

<sup>14</sup>Ibid.

<sup>15</sup>Ibid.

### Reasons for Non-Participation

The reasons for not voting stated most frequently by respondents were "no candidate preference" and "not interested in politics or the election." The same responses were also selected most frequently by non-voters in the civilian electorate.<sup>16</sup>

### Voting Assistance

A major activity of the Federal Voting Assistance Program is providing assistance and information to absentee voters through designated Voting Assistance counselors at the small-unit level throughout the Federal government. Constant monitoring and spot-checking of the assistance network is one way of insuring its effective operation. Analysis of survey responses is another.

FIGURE 8: Availability of Voting Assistance in 1976

	<u>Assistance Not Required (%)</u>	<u>Assistance Not Available (%)</u>
Military	57.1	7.1
Coast Guard	66.0	4.4
Civilians	66.0	6.7

SOURCE: Survey Branch, Form A, p.13.

The high percentage of respondents not requiring assistance corresponds closely to the figures for non-participation. The extremely low numbers answering "assistance not available" is evidence of both the pervasiveness of the Voting Assistance Program and the scope and intensity of the information advertising its availability.

Voting assistance personnel are the technicians of the Program. Their role is to provide information and expertise on how to negotiate the complex absentee voting process. One measure of their effectiveness is whether respondents were satisfied with the availability of voting

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<sup>16</sup>Ibid. p.19; Census, Current Population Reports, p.6.

procedure information. Approximately 70% answered in the affirmative.<sup>17</sup>

## American Civilians Abroad

### Introduction

The 1955 Act describes this category as

"Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them."<sup>18</sup>

The statutory language has some definitional problems ("temporarily residing," "territorial limits"). In addition, since the statute is merely hortatory, the approximately 35 States that have adopted its recommendation to permit this category to register and vote absentee have interpreted the operative terms in a variety of ways.

Compounding the dilemma of who and where these citizens are is the Overseas Citizens Voting Rights Act of 1975, 42 U.S.C. 1973dd-1973dd-5 (Supp. V, 1976) which arguably could be interpreted to include within its mandatory language all 1955 Act voters who are abroad, but is limited to Federal elections, and lacks a procedural mechanism for effectuating the new rights.

Finally, there are no existing sources of information that quantify the number of persons in this category eligible to vote or that pinpoint their location.

Consequently, there are substantial problems involved in attempting to survey this group. FVAD relied on the Department of State's estimate that there are approximately 1.25 million Americans abroad. This rough estimate is projected from a listing of Americans abroad who have registered with U.S. embassies and consulates.

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<sup>17</sup>Survey Branch, Form A, p.29.

<sup>18</sup>42 U.S.C. 1973cc(3) (Supp. V, 1976).

The State Department list became the framework for the random sampling plan used in choosing potential survey respondents. The survey was conducted in the 35 countries containing an estimated 90 percent of Americans abroad. Five thousand questionnaires were allocated in proportion to the number of Americans per country. One thousand, one hundred and forty-two surveys were returned and analyzed.

At best, the data gathered from this survey only approximates the situation of Americans abroad. A major reason for this is that registration with the State Department is a voluntary action taken by only a few of the estimated number of citizens abroad.

#### Statistical Data

##### Participation

19.6 percent of the respondents report voting in November 1976 (nine of ten by absentee ballot).<sup>19</sup> However 28.2 percent report either voting or attempting to vote (and failing).<sup>20</sup> Therefore, at least one-third of the respondents that applied for absentee ballots did not get to vote.<sup>21</sup>

FIGURE 9: Results of Absentee Ballot Requests in 1976 (%)

Received Ballot Before Deadline	66.4
Received Ballot After Deadline	10.7
Did Not Receive Ballot	22.9

SOURCE: Survey Branch, Form B, p.7.

##### Demographic Characteristics

Several demographic characteristics and attitudes were examined to discern their effect on reported voting:

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<sup>19</sup>The 1976 Post-Election Voting Survey - Form B: A Survey of U.S. Citizens Residing Outside of the United States, prepared by the Defense Manpower Data Center Survey Branch (Washington, D.C., 1977), p.5.

<sup>20</sup>Ibid., p.7.

<sup>21</sup>Ibid.



Age

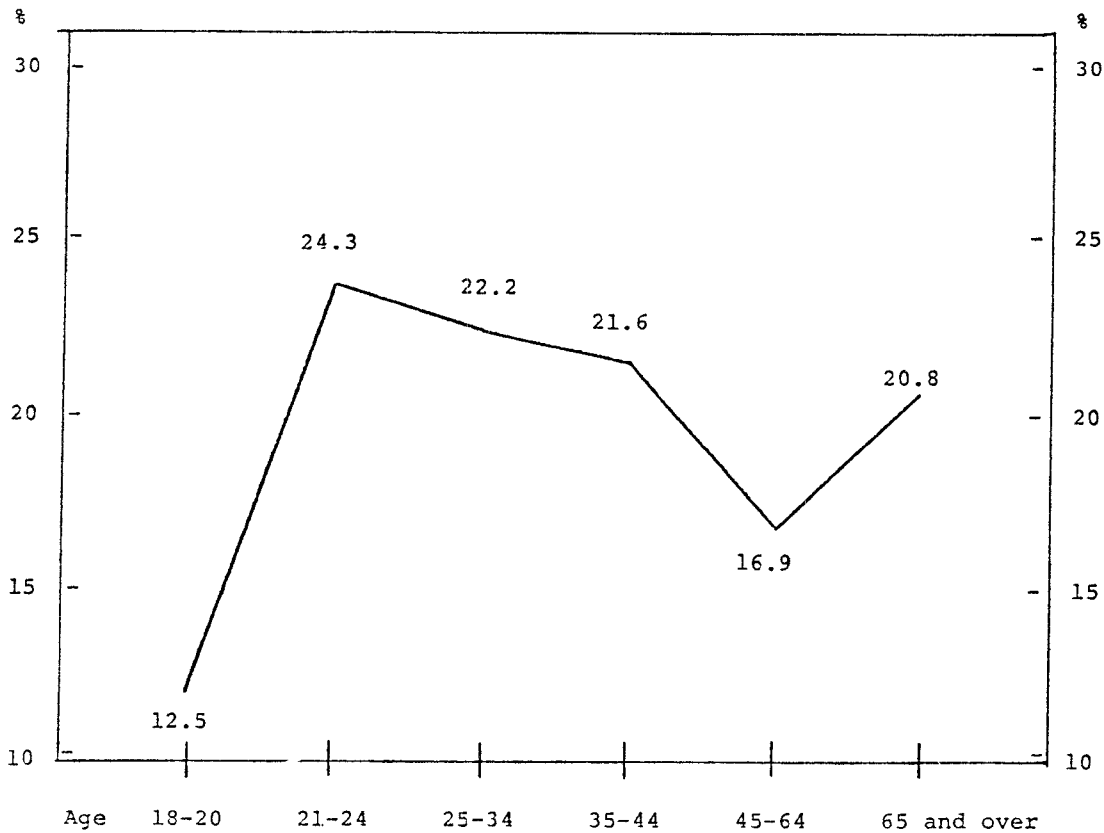
FIGURE 10: Age Distribution of Civilian Electors Abroad  
on November 2, 1976

<u>Age (in years)</u>	<u>Percent of Total Electorate</u>
18-20	2.0
21-24	5.0
25-34	24.9
35-44	20.0
45-64	36.3
65 and over	11.8

SOURCE: Survey Branch, Form B, p.4.

As Figure 3 (page 26) indicates, voting participation among both the military and civilian electorates increases with increasing age. However, participation by Americans abroad does not follow this pattern:

FIGURE 11: Civilians Abroad Reporting Voting, by Age, in 1976



SOURCE: Survey Branch, Form B, p.6.

### Time Away From United States

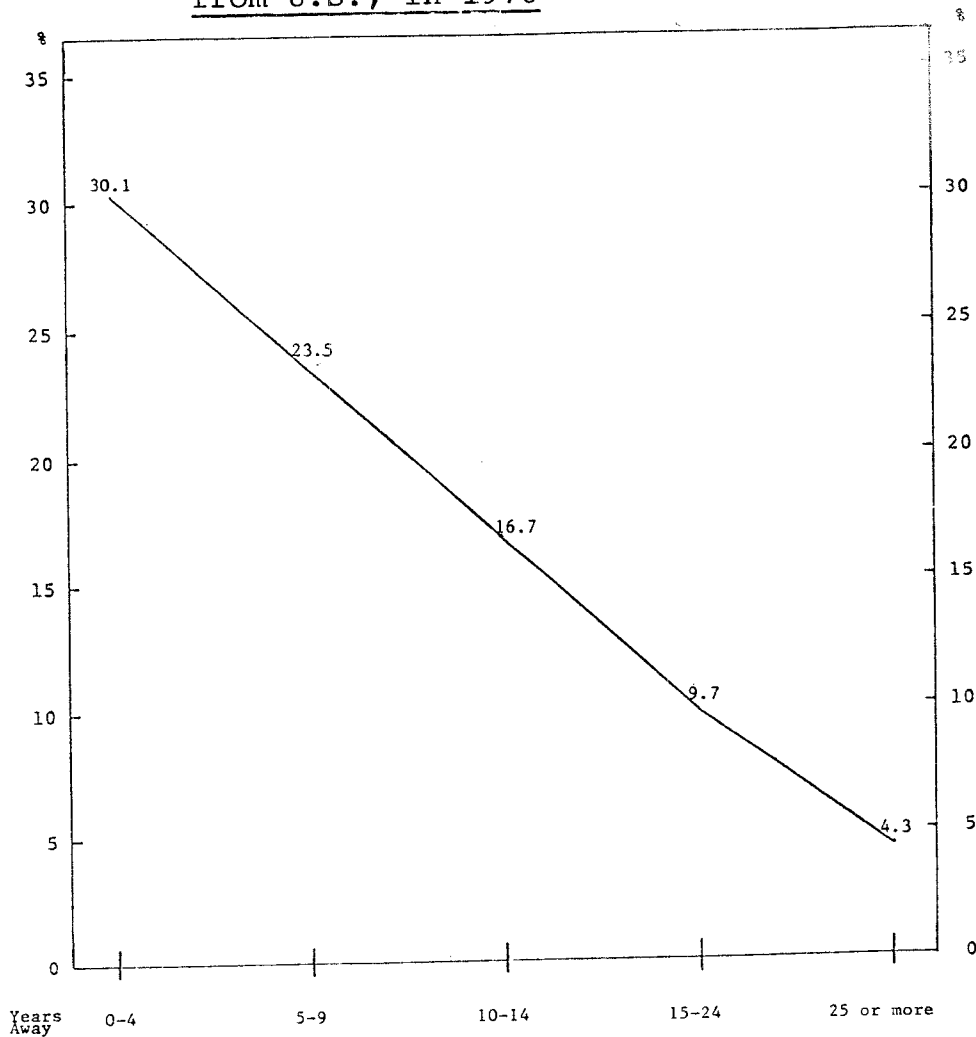
A second demographic characteristic - time away from the United States - appears to influence the voting participation of citizens outside the United States more than does age:

FIGURE 12: Distribution of Civilian Electors Abroad, by Time Away from U.S., in 1976

<u>Years Away From U.S.</u>	<u>Percent of Total Electorate</u>
0-4	31.7
5-9	24.6
10-14	16.1
15-24	17.6
25 or more	10.0

SOURCE: Survey Branch, Form B, p.4.

FIGURE 13: Civilians Abroad Reporting Voting, by Time Away from U.S., in 1976



SOURCE: Survey Branch, Form B, p. 6.

### Intent to Return to U.S.

Intent to return to the U.S. was also found to be related to reported voting rates:

FIGURE 14: Civilians Abroad Reporting Voting in 1976, by Intent to Return to U.S.

<u>Intent to Return to U.S.</u>	<u>Percent Reporting Voting</u>
Definitely will	28.2
Probably will	22.3
Undecided	12.1
Probably or Definitely will not	11.9

SOURCE: Survey Branch, Form B, p.6.

### Employment Status

The effect on voting of employment status is generally not significant, with the exception of U.S. citizens working for foreign employers (14.2 percent report voting).<sup>22</sup>

### Psychological Factors Affecting Participation

More than three-fourths of the respondents said they were "very interested" in the November elections.<sup>23</sup> Nevertheless, 75 percent of the "very interested" report not voting.<sup>24</sup> The survey attempted to find out the reasons respondents did not vote, and asked them to indicate the extent to which the reasons selected influenced their decision not to vote. No one reason stands out as having significant influence on non-voting.<sup>25</sup> In order of relative influence, the reasons for not voting were (note that even the most significant reason had only "some influence" on the decision not to vote):

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<sup>22</sup> Ibid., p.6.

<sup>23</sup> Defense Manpower Data Center Survey Branch.

<sup>24</sup> Survey Branch, Form B, p.6.

<sup>25</sup> Ibid., p.8.

1. Lack of information on voting procedures.
2. No State of legal residence for voting.
3. No candidate preference.
4. Not interested.
5. Did not know about the election.
6. My vote would not matter.
7. Possible effect of voting on tax obligation.<sup>26</sup>

#### Assistance and Information

FVAD asked reported voters where they got their information about voting procedures and candidates and issues. Three sources of procedural information were noted most often. In order of reliance, there were:

1. U.S. embassy/consulate.
2. U.S. print media.
3. Family/friends.<sup>27</sup>

The following sources were resorted to most frequently for candidate and issue information:

1. U.S. Print media
2. Family/friends
3. Foreign print media<sup>28</sup>

The impact of the Overseas Citizens Voting Rights Act of 1975 on the absentee process was examined to a limited extent. Of respondents applying for absentee ballots, 66% used the Federal Post Card Application, and the remaining 34% used some other form.<sup>29</sup> 42.3 percent received ballots for Federal offices only, whereas 57.7 percent received full ballots.<sup>30</sup>

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<sup>26</sup>Ibid.

<sup>27</sup>Ibid., p.10.

<sup>28</sup>Ibid.

<sup>29</sup>Ibid., p.5.

<sup>30</sup>Ibid.

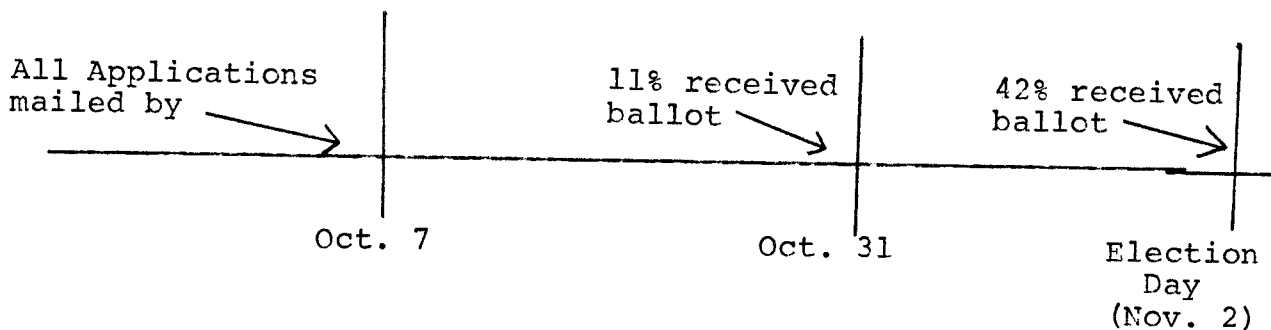
## Ballot Transmission Time Survey

In late March of 1976, it became evident that New York State would not be able to mail Presidential primary absentee ballots to many applicants in time for their votes to be counted. This disenfranchisement was the unfortunate result of a combination of ballot access litigation and an eleventh-hour legislative change in the State law controlling ballot format. FVAD asked New York to take action to extend the ballot receipt deadline seven days beyond election day. The State did extend the deadline one day (to election day).

In order to gauge the effect of this impending problem, FVAD asked military voting assistance personnel throughout the world to report the earliest date ballots from New York were received by local applicants. The results indicated massive disenfranchisement. The earliest date a ballot was received outside the United States was two days before primary day. In addition, FVAD learned that a large number of military voters within the U.S. also did not receive timely ballots.

Armed with this knowledge, FVAD targeted a number of States that we determined would possibly encounter similar problems mailing timely ballots for the November election. States were selected if they had either Fall primaries, candidate filing or certification dates relatively close to the election, or a strong possibility of ballot access litigation. Voting assistance personnel were directed to alert voters to potential mailing delays. As election day approached, a random selection of military voting assistance personnel began monitoring absentee ballot receipt by persons who had mailed applications more than 30 days before the election. Figure 6 illustrates the results of this survey.

FIGURE 15: Ballot Receipt by Timely Military Applicants



SOURCE: Proposed Amendments to the Overseas Citizens Voting Rights Act of 1975: Hearings on S.703 Before the Senate Committee on Rules and Administration, 95th Cong., 1st Sess., p.32 (March 8, 1977) (statement of John C. Broger).

With only one week remaining before the ballot return deadline in most States, only 11 percent of the "diligent" applicants (those who applied for ballots more than 30 days before election day) had received ballots. During the last week before the election, an additional 31 percent received their ballots. It can be assumed that a large number of these ballots could not have been returned to the election district by the deadline. By November 7, fully 58 percent of those surveyed received neither a ballot nor any other response explaining why they did not receive a ballot. Some applicants received ballots after election day, one ballot arriving on December 15.<sup>31</sup>

### Conclusion

The surveys contain a wealth of information about absentee voting in general and the Federal Voting Assistance Program in particular. FVAD will use this information to develop future Program policy, assess our priorities, and make refinements in our existing activities.

The demographic analysis of the military voter, the parallel study of the military and national civilian electorates, and the consideration of attempted voting along with reported voting as the ingredients of actual participation, have shed a new and different perspective on the largest element of the absentee electorate. The concentration of low-participation demographic characteristics within the military electorate makes it a microcosm representative of hard-core non-voting. Because it is routinely and periodically analyzed, and easy to define and locate, the armed forces may potentially serve as a laboratory for the study of voter participation and the testing of techniques to encourage civic responsibility and the dispelling of voter apathy and alienation.

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<sup>31</sup>These figures differ from those reported on page 23 where approximately 20 percent stated that they were unable to vote. It is important to remember that these surveys were taken at different times among different sampling groups using different survey techniques.

FVAD has also learned that the voting assistance and information programs for the benefit of Federally affiliated persons are successful. They seem to have become institutionalized among the Federal departments and agencies with administrative responsibilities in this area. For the most part, Program information and assistance for this category are quite adequate and should be maintained at current levels.

The same cannot be said with regard to informing and assisting Americans abroad. FVAD faces monumental difficulties in locating these prospective voters and establishing links with them for the dissemination of information. Nevertheless, they deserve our best efforts and will receive them. FVAD now knows something about the most effective information sources to employ.

FVAD's best efforts will be hampered greatly however, in the absence of coordination between the Federal Voting Assistance Act of 1955, as amended, and the Overseas Citizens Voting Rights Act of 1975. S.703 is a big step in this direction and FVAD urges its enactment.

Finally, and most importantly, there is a recurring refrain that permeates all three surveys and the work of FVAD.<sup>32</sup> It is a fact that the absentee process does not yet work very well. All too often, large numbers of voters are disenfranchised because of administrative breakdowns. Even more ominously, as American society becomes more mobile and the absentee electorate increases, and as more absentee legislation is enacted, the probability of breakdown increases dramatically.

A few simple reforms of the absentee process would do much to uncomplicate it for both election officials and voters, improve opportunities to exercise the right to vote,

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<sup>32</sup>FVAD functions as an "ombudsman" during election years, assisting voters to resolve problems that arise during the absentee process. The problems are many and diverse, and if left alone, would lead to even more massive disenfranchisement. At the same time, we are in constant contact with State and local election officials, seeking to clarify laws, regulations, and procedures, and attempting to resolve voter problems. It is very obvious that many election administrators do not understand these laws, and many more have difficulty making them work.

and minimize administrative disenfranchisement. FVAD has proposed such reforms to the Congress and the President (See also Chapter V).

FVAD must change its Program emphasis from the voter to the election official; from a preoccupation with informing the former about making his way through a complex procedural maze to active advocacy of the simplification of the absentee process and the elimination of the maze itself. Modernizing and rationalizing the system will do more to increase voter participation than any other action available to FVAD.



## Chapter V

### ADDITIONAL INFORMATION

The following information is included in this Report to increase understanding by the President and the Congress of the major difficulties involved in absentee voting and the reasons for these difficulties, and to recommend proposals designed to remove them.

#### Major Problems of Absentee Voting

##### Non-uniform Treatment of Similarly Situated Absentee Voters

A major difficulty confronting absentee voters is the bewildering variety of Federal and State absentee voting laws. FVAD estimates that there are approximately 300 absentee voting systems active in the United States today. They differ from each other depending upon one or more variable factors, such as location of the voter, the reason for his absence, the fact and/or nature of his employment, his relationship to others, and the type of election. The result is different procedures, different deadlines, different forms, different ballots, and different postal requirements for different categories of voters, both among and within the States.

Often, a particular form of initial request for absentee registration or ballot triggers one of these highly particularized absentee voting systems, and excludes the applicant from being considered under any other system, regardless of eligibility. Further, since most aspects of election administration are controlled at the local level without much State coordination, treatment of individual voters may vary greatly.

Maintaining many different absentee electoral systems not only invites confusion among voters and election officials charged with implementing these fine distinctions. It also has the unavoidable effect of disenfranchising large numbers of potential voters. In addition, it unnecessarily multiplies the expenses involved in operating the electoral process.

##### Examples of Non-uniform Treatment

ILLINOIS - deadline for completing absentee registration or its equivalent:

armed forces member (no deadline,  
registration not required);

business man in Europe: current Illinois  
resident (29 days before election, but 36 days before election  
in Cook County);

businessman in Europe: former Illinois  
resident immediately prior to leaving U.S. (30 days before  
election);

Illinois resident studying in Europe  
(cannot register absentee).

LOUISIANA - Procedure for Certain Absent  
Persons to Vote in Special Primary, Runoff, and General  
Election to Fill Vacant First Congressional District Seat  
in 1977.

Spouse of Armed Forces Member Outside U.S.

A. If not registered:

1. mail FPCA to obtain registration  
form.

2. return registration form so that  
it is received no later than (NLT) 30 days before special  
primary election.

3. Three different methods of  
applying for absentee ballots depending upon parish of  
residence:

a. mail second FPCA for ballots  
for all three elections (must be received NLT 7 days before  
special primary election); or

b. mail three separate FPCAs,  
at same time, for ballots for all three elections (must be  
received NLT 7 days before special primary election); or

c. mail three separate FPCAs for  
each election (each FPCA for runoff and special general  
election must be received no earlier than 60 and NLT 7 days  
before the particular election).

B. If registered: proceed directly to  
step 3, above.

Spouse of Armed Forces Member Within U.S.

A. If not registered:

1. cannot vote because not allowed to register absentee.

B. If registered: proceed directly to step 3, above.

NEW YORK: Addressees for FPCA

Armed Forces Member - Division for Servicemen's Voting (DSV), Albany (but some counties will accept FPCAs and ballots mailed directly to them); DSV then forwards FPCAs (and subsequently, ballots) to counties.

Merchant Marine Member - County Board of Elections.

Former Resident Outside U.S. - Secretary of State, or DSV, or State Board of Elections, or County Board of Elections.

OHIO: Registration

Not Required For - spouse of armed forces member if out of State for purpose of being near or with the armed forces member.

Required For - spouse of armed forces member within State.

WISCONSIN: Registration

Dependent of Armed Forces Member Living with the Armed Forces Member in Germany - registration not required.

Dependent of Armed Forces Member in Germany, studying in France - registration required.

Dependent of Armed Forces Member Living with the Armed Forces Member in Florida - registration required.

## Overlapping Federal Legislation

The multitude of State laws and local procedures governing absentee voting is not solely responsible for the ineffectiveness of the absentee voting process. There are currently three separate and overlapping Federal laws governing absentee voting:

The first is the Federal Voting Assistance Act of 1955, as amended, (See Section I for discussion) which recommends absentee voting procedures to be adopted by the States for the benefit of specific categories of voters, and requires the Federal Government to take action to assist these voters. The Federal Voting Assistance Program is operated under this Act.

The second Federal statute is section 202 of the 1970 Voting Rights Act Amendments (42 U.S.C. 1973aa-1). This Act mandates that the States adopt legislation to permit their absent residents and former residents who have recently moved to another State to vote by absentee process for President and Vice President. No Federal agency is responsible for either assisting the States to adopt the required legislation or assisting voters to participate under this law (A bill (H.R. 5868) has been introduced in the House of Representatives to amend this law to include all Federal elections).

Finally, there is the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd-1973dd-5), which extends the absentee voting franchise to citizens residing outside of the United States, and mandates that the States enact laws to enable these voters to participate. This law, like the 1970 Act, did not provide for administration by any Federal agency. However, Congress, in Senate Bill 703, has attempted to correct the problems caused by lack of administration. Under this bill, administration would be placed in the Federal agency which administers the Federal Voting Assistance Act of 1955, i.e. the Presidential designee, currently the Secretary of Defense.

All of the persons covered by each of these laws are in the same position: away from their places of voting residence. Yet the mandates, procedures, and recommendations called for by the three statutes differ significantly.

<u>ACT</u>	<u>PERSONS COVERED</u>	<u>ELECTIONS</u>	<u>ADMINISTRATION AND ASSISTANCE</u>
Federal Voting* Assistance Act of of 1955, as amended	Armed Forces Members,* their Spouses and Dependents; Merchant Marine Members, their Spouses and Depen- dents; U.S. Citizens Temporarily Outside Territorial Limits of U.S. and D.C.	All*	Presidential Designee
§202, Voting Rights Act Amendments of 1970	All absent residents and former registered residents who moved out of State less than 30 days before next Presidential election	President, Vice President	None
Overseas Citizens Voting Rights Act of 1975	Citizens residing outside U.S.	Federal	None

\*Recommendation

<u>PRESCRIBED FORM</u>	<u>ABSENCE</u>	<u>APPLICATION DEADLINE</u>	<u>BALLOT RECEIPT DEADLINE</u>	<u>FREE POSTAGE FOR BALLOTING MATERIALS</u>
Yes (FPCA)*	Place of Voting*	Not Addressed by Statute	Not Addressed by Statute	Yes
None	State or Political Subdivision	30 days before election for registration; 7 days before election for ballot appli- cation; not addressed for former residents	Close of polls for current residents; not addressed for former residents	No
None	U.S.	30 days before election	Close of polls	No

\*Recommendation

None of these three laws is self-executing. Since they require implementation by the States, it is inevitable that they operate quite differently in different States, and do not always achieve the results intended by the Congress.

#### Burdensome Procedural Requirements

Since the absentee voter must go through far more procedural acts and depend upon the services of far more government officials than the voter who is privileged to vote in person at the polls, the probability of his ballot being counted is much less likely than that of the polling place voter. Not only must the absentee voter vote and mail his ballot in time to reach the election official by the statutory deadline; prior to voting he must complete registration forms, often separately apply for an absentee ballot for each election, as well as be subject to delays in the postal system. Each time an administrative step is taken, there is the opportunity for error and delay, and these do occur, resulting in the unnecessary disenfranchisement of many voters. Superimposed upon these problems are the varying forms and procedures employed in the case of various categories of voters, i.e. military personnel, their spouses and dependents; civilians temporarily overseas; civilians permanently overseas; students within the State; civilians outside of the State but within the United States, etc.

There is no need for this seemingly endless litany of different categories of voters and voting procedures; to the contrary, it adds to the burden of local election officials and results in a process unnecessarily burdensome for the voter.

#### Ballot Transmission Delays

As was noted in Chapter IV, a substantial number of voters who attempt to participate are not able to do so because they receive their ballots too late to be returned by the deadline for receiving ballots. This is apparent not only from statistics; it is also one of the major sources of complaints to FVAD. There are a number of causes for such delays: late primary elections; last minute challenges to ballot access and position; unrealistically late candidate and ballot certification dates; eleventh-hour changes in the election law; lack of statutory time requirements for the printing of ballots; and delays in ballot transmission through the mails caused by mishandling and "overhandling" (the interposition of unnecessary middlemen in the ballot-handling process).

Many times such delays occur in local jurisdictions in one section of the State and not in others, and therefore never come to the attention of Federal officials.

#### Assistance to State and Local Election Officials

The administration of elections is primarily a local activity carried out within certain broad guidelines provided by the State and Federal governments. Consequently, election systems in general and absentee voting procedures in particular are subject to thousands of variances. The many laws and regulations that are supposed to be applied by local election administrators impose an impossible burden on these officials.

Compounding the difficulty of administering elections is the frequent lack of an authority from whom the local official can obtain understandable and useful advice and guidance. Lines of communication between the three levels of government concerning absentee voting are not well-defined, and are, for the most part, non-existent. As a result, much of the absentee voting process is controlled by the long standing procedural tradition of local election officials with only an incidental relationship to the requirements of State and Federal law. While this technique may at times ease the hardships associated with absentee voting, for the most part it results in illogical distinctions between voters from various parts of a State and causes needless confusion.

Finally, the fact that absentee registration and voting procedures and requirements are so often creatures of local policy makes the information-gathering responsibility of the Presidential Designee a difficult one to fulfill. FVAD has always relied upon State law and its interpretation by State election officials to accomplish this task. However, State officials are very often unsure of vital requirements. A number of State officials approached by FVAD have consulted with one or more counties to obtain the basic information requested. It is apparent that FVAD would have to examine the law as applied in each of thousands of local jurisdictions in order to advise absentee voters of the correct procedures to follow in order to participate in elections.



## Proposals For Consideration

The recommendations that follow are designed to eliminate the problems addressed in this chapter. They are based upon the experience and studies of FVAD and its predecessors gained over 35 years of involvement in absentee voting. The procedural recommendations for streamlining the ballot application and transmission processes are derived from existing successful State procedures that are in use in one or more States. The mandated guaranteed voting rights and procedures are intended to apply to Federal elections only (i.e., President, Vice-President, U.S. Senators and Representatives).

### Recommendation No. 1: Recodification of Federal Absentee Voting Laws

The three existing Federal laws discussed in this chapter should be consolidated into a single, comprehensive Federal law which would not only mandate the right to vote for all Federal officials, but would also delineate the responsibilities of Federal departments and agencies and provide for overall coordination thereof. Any such recodification should also require the States to adopt certain basic procedures which would be applicable to all covered voters. Voters covered by the new law would include all those covered by current law, i.e., all current or former residents of a State or election subdivision who are away from their places of residence on election day, regardless of the reasons for their absence.

### Recommendation No. 2: Absentee Registration and Balloting Procedures

These procedures would be mandatory, for covered persons, for Federal elections:

#### (1) Post Card Application

The Federal government would provide a single post card application, free of all U.S. postage, which would be accepted by State or local election officials (optional with voter) as a simultaneous application for registration (if necessary) and absentee ballots for all Federal elections remaining in the calendar year in which it is received.

This procedure would minimize the many exchanges of correspondence now necessary in most jurisdictions, and the attendant risks of disenfranchisement resulting from excessive handling. Election officials could maintain a list of absentee voters from whom post card have been received, for use in mailing ballots (when printed) for ensuing elections during the year.

## (2) Registration Alternatives

States would be permitted to select one of three optional qualification methods:

- (a) waiver of registration; or
- (b) acceptance of the post card application as the registration document; or
- (c) providing that registration forms, if required, be mailed to and from the voter with the ballot.

A substantial number of States already employ one of these methods for one or more categories of voters that would be covered by the new law. Each alternative, including waiver of registration, provides the States with an effective method of checking voter qualifications. The fact that the process in each case is initiated by the receipt of a post card application in advance of election day, signed by the applicant under penalty of perjury, attested (if the State desires) by a person authorized to administer oaths, and containing verifiable information on citizenship, age, current or former local address, and other qualification status of the applicant, not only gives the States the time and opportunity to establish the same qualifications to vote that can be established by registration in person before election day, but also amply protects the integrity of elections. In addition, the signature on the post card application may be compared with the signature on the envelope in which the voted ballot is returned. Further, each alternative procedure lends itself to completion through the same exchange of correspondence necessary to obtain ballots. Registration would be "permanent," subject to the cancellation provisions of State law (e.g., moving to a new address, changing of name, not voting for prescribed unit of time).

(3) Notification Requirements

State and local election officials should notify applicants immediately if registration is denied them. Notification should include the reason(s) for denial, and any remedial action available to applicants, including recourse to administrative and/or judicial appeals.

Under current State law, applicants are not always notified that registration has been denied. Their first indication is the approach of election day with no ballot yet received. In some States where such notice is given, the possibility of corrective action is left to the applicant to discover.

(4) Deadlines

(a) receipt of post card application  
by election official:

days before an election.

- 1) from unregistered voter - 30
- 2) from registered voter - 7 days

before an election.

(b) date by which ballots should be  
printed and ready for mailing - 20 days before an election.

(c) receipt of voted ballot by election  
official - 10 days after election, provided ballot is post-  
marked (or otherwise dated under oath) no later than election  
day.

The 30-day deadline for receipt of the  
post card application from an unregistered voter by election  
officials gives the latter ample time to verify qualifications.  
The deadline is the same as that mandated by both the Voting  
Rights Act Amendments of 1970 and the Overseas Citizens Voting  
Rights Act of 1975.

The 7-day deadline for receipt of the  
post card application from a registered voter corresponds  
to the same deadline prescribed by the 1970 Amendments.

Twenty days before an election is  
suggested as the time by which absentee ballots should be  
printed and ready for mailing. The proposed mandatory  
nature of this deadline presupposes that States that now

have laws and regulations that cause delays in ballot transmission (see page 16) amend them to conform to this requirement. It is also possible that the proposed law contain language prescribing actions to take in the event of court challenges to the ballot that jeopardize compliance with the 20-day deadline. Several possibilities which could minimize the impact of late challenges are either "freezing" the ballot as it would appear by the deadline date, and then not counting votes for the office or offices affected by the court decision (if resulting in a change in ballot format), or omitting the names of candidates for the affected office(s), leaving blanks for write-in votes.

The 10-day-after-election deadline for the receipt by election officials of voted ballots postmarked or otherwise dated under oath by election day, complements the 20-day deadline discussed above. Thus, the total minimum time frame within which absentee ballots could be mailed, marked, and returned, would be 30 days for nonregistered and other applicants who applied in a timely manner. This would ensure sufficient round-trip time for ballots to voters in remote locations, without jeopardizing the finality of elections. Absentee voters constitute only a small minority of the electorate. Hence, the bulk of the votes in any election will be cast in person at the polls on election day. Second, since most voters are not in remote places, the vast majority of absentee ballots will most likely arrive by election day or very soon thereafter. Third, many States now are still counting absentee ballots after election day. Fourth, certification of election results does not generally take place until several days or more have passed. Finally, very rarely is any election, much less a Federal election, decided by absentee ballots. In all but a very few cases, pluralities will be greater when the votes are counted on election night than the number of absentee ballots outstanding. Therefore, final outcomes will be decided as they are now, and may be instantly communicated to the public.

### Recommendation No. 3: Federal Financing and Incentives

It is recommended that the proposed legislation include three distinct, but related funding provisions:

- (1) Free postage for balloting materials.  
Envelopes in which ballots are mailed both to and from

absentee voters should be permitted to travel free of U.S. postage, including air mail. The 1955 Act has such a provision. To take advantage of this provision, State and/or local election jurisdictions would have to print ballot envelopes according to a prescribed format, which would also have the advantage of alerting postal officials to the fact that ballots are contained therein, and should be expedited. The legislation may also wish to include reimbursement to election jurisdictions for the cost of purchasing, printing, and processing envelopes.

(2) Financing Costs Incurred by Election Administrators in Changing Over to the New Requirements of Federal Law. The imposition of Federal requirements that necessitate alterations in State electoral systems may cause some financial strain without this sort of provision.

(3) Incentives to Encourage the Extension of these Procedures to All Other Elections. Without such a provision, some States may be forced or inclined to maintain dual (or more numerous) absentee voting systems. While there may be certain categories of voters to whom the right to vote in State and local elections should not be extended (former residents, for example), there is no reason why current bona fide absent residents should be burdened by having to comply with the potentially differing requirements of at least two absentee voting systems in order to vote a "full" ballot or to vote in all elections.\*

#### Recommendation No. 4: Federal Administration

There should be a Federal government focal point for administration of the new law. The Federal administrator should have the authority to:

(1) promulgate the post card application, ballot envelope formats, and any other forms required by the law.

(2) administer the funding provisions of

\*This Report does not discuss the constitutional issues potentially raised by the imposition of Federal requirements for State and local elections.

(3) assist States and local jurisdictions to draft implementing legislation and regulations, and in the implementation thereof.

(4) make available forms, information, and assistance to absentee voters.

(5) coordinate the voting assistance programs of other Federal agencies.

(6) issue advisory opinions, upon request.

(7) promulgate all necessary rules and regulations.

It is impossible to estimate, at this time, the costs of Federal administration. However, these costs should, over time, be more than offset by the reduction in costs resulting from the rationalization and streamlining of the absentee voting process wrought by this proposal.

### Conclusion

Absentee voting in the United States is a process constantly kept in a state of turmoil by ever-changing laws that bear little relationship to each other, and cause considerable confusion and disgust among election administrators and voters alike. With every passing year, the number of potential absentee voters increases, while opportunities for them to exercise their fundamental right to vote remain, at best, static. The existing means of absentee participation produce great inequities between Americans who are similarly situated.

The recommendations of this Chapter, if adopted, can go far to equalize, as much as possible, the right and opportunity of polling place and absentee voters to take part in their government.

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(d) Confidentiality of information; penalties.

The provisions of section 9 and chapter 7 of Title 42 shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section. (Pub. L. 89-110, title II, § 207, as added Pub. L. 94-73, title IV, § 403, Aug. 6, 1975, 89 Stat. 404.)

#### SUBCHAPTER I-C.—EIGHTEEN-YEAR-OLD VOTING AGE

§ 1973bb. Enforcement of Twenty-Sixth Amendment.

(a) (1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this subchapter, which shall be heard and determined by a court of three judges in accordance with section 2284 of Title 28, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (As amended Pub. L. 94-73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

#### AMENDMENTS

1975—Pub. L. 94-73 substituted provisions authorizing the Attorney General to institute proceedings to enforce twenty-sixth amendment, the jurisdiction of the district courts, and penalties for denial of rights secured by twenty-sixth amendment, for provisions relating to Congressional findings and prohibition of denial of right to vote on account of age.

§ 1973bb-1. Definitions.

As used in this subchapter, the term "State" includes the District of Columbia. (As amended Pub. L. 94-73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.)

#### AMENDMENTS

1975—Pub. L. 94-73 substituted definition of State for provisions prohibiting denial of right to vote because of age.

§§ 1973bb-2 to 1973bb-4. Repealed. Pub. L. 94-73, title IV, § 407, Aug. 6, 1975, 89 Stat. 405.

Section 1973bb-2, Pub. L. 89-110, title III, § 303, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318, authorized the Attorney General to institute actions to enforce this subchapter, and provided for jurisdiction of district courts, appeals, and penalties for denial of rights secured by this subchapter. See now, section 1973bb of this title.

Section 1973bb-3, Pub. L. 89-110, title III, § 304, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 319, defined "State". See section 1973bb-1 of this title.

Section 1973bb-4, Pub. L. 89-110, title III, § 305, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 319, provided for effective date of this subchapter.

#### SUBCHAPTER I-D.—FEDERAL ABSENTEE VOTING ASSISTANCE

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 22, section 2504; title 39, sections 2401, 3627, 3684.

##### PART I.—RECOMMENDATION TO STATES

##### PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1973cc-11 of this title.

§ 1973cc. State enactment of absentee voting legislation.

The Congress expresses itself as favoring, and recommends that the several States take, immediate legislative or administrative action to enable every person in any of the following categories who is absent from the place of his voting residence to vote by absentee ballot in any primary, special, or general election held in his election district or precinct, if he is otherwise eligible to vote in that election:

(1) Members of the Armed Forces while in the active service, and their spouses and dependents.

(2) Members of the merchant marine of the United States, and their spouses and dependents.

(3) Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

(Aug. 9, 1955, ch. 656, title I, § 101, 69 Stat. 584, amended June 18, 1968, Pub. L. 90-343, § 1, 82 Stat. 180.)

#### CODIFICATION

Section was formerly classified to section 1451 of Title 50, War and National Defense.

#### AMENDMENTS

1968—Pub. L. 90-343 consolidated into par. (3) the provisions of former pars. (3) and (4) and, in such consolidated par. (3), substituted provisions which served to extend the recommendations to the states as to absentee voter registration so as to include citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them for former provisions of par. (3) which served to include civilian employees of the United States in all categories serving outside the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by Congress, and provisions of former par. (4), which served to include members of religious groups and welfare agencies assisting members of the Armed Forces, who are officially attached to and serving with the Armed Forces and their spouses and dependents.

#### SHORT TITLE

Section 1 of act Aug. 9, 1955, provided that: "This Act [which enacted this subchapter and repealed sections 301-303, 321-331, 341, and 351-355 of Title 50] may be cited as 'The Federal Voting Assistance Act of 1955'."

#### SEPARABILITY OF PROVISIONS

Section 306 of act Aug. 9, 1955, provided that: "If any provision or this Act [this subchapter] or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act [this subchapter] and the applicability of such provision to other persons or circumstances shall not be affected thereby."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973cc-1, 1973cc-3 of this title.

## SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-1105 of the District of Columbia Code.

## § 1973cc-1. Balloting procedures.

To afford ample opportunity for persons covered by section 1973cc of this title to vote for Federal, State and local officials and to use the absentee balloting procedures to the greatest extent possible, it is recommended that each of the several States—

(1) accept as applications for absentee ballots under such States' absentee balloting laws, as applications for registration under such States' election laws, and as sources of information to implement State absentee balloting laws, the form of post card (when duly executed by a person covered by section 1973cc of this title) provided pursuant to this subchapter;

(2) waive registration of persons covered by section 1973cc of this title, who, by reason of their service, have been deprived of an opportunity to register;

(3) accept the post card application provided pursuant to this subchapter as a simultaneous application for registration and for ballot;

(4) if a special application is required for registration by mail, provide that the necessary forms will be sent with the absentee ballot and may be returned with it;

(5) make provision for persons eligible to register and qualified to vote, who have been honorably discharged from the Armed Forces, or have terminated their service or employment, too late to register at the time when, and at the place where, registration is required, to vote at the election next ensuing after such discharge or termination;

(6) authorize and instruct the State or local election officials, upon receipt of the post card application provided pursuant to this subchapter, to mail immediately to the applicant a ballot, instructions for voting and returning the ballot, and a self-addressed envelope;

(7) provide that there be printed across the face of each envelope in which a ballot is sent two parallel horizontal red bars, each one-quarter inch wide, extending from one side of the envelope to the other side, with an intervening space of one-quarter inch, the top bar to be one and one-quarter inches from the top of the envelope, and with the words "Official Election Balloting Material—via Air Mail", or similar language, between the bars; that there be printed in the upper right corner of each such envelope, in a box, the words "Free of U.S. Postage, Including Air Mail"; that all printing on the face of each such envelope be in red; and that there be printed in red in the upper left corner of each State ballot envelope an appropriate inscription or blanks for return address of sender;

(8) provide that the gummed flap of the State envelope supplied for the return of the ballot be separated by a wax paper or other appropriate protective insert from the remaining balloting material and that there be included in State voting instructions a procedure to be followed by absentee voters, such as notation of the facts on

the back of envelope duly signed by the voter and witnessing officer, in instances of adhesion of the balloting material;

(9) reduce in size and weight of paper, as much as possible, envelopes, ballots, and instructions for voting procedure;

(10) for the purposes of this subchapter, authorize oaths required by State law to be administered and attested by any commissioned officer in the active service of the Armed Forces, any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce, the head of any department or agency of the United States, any civilian official empowered by State or Federal law to administer oaths, or any civilian employee designated by the head of any department or agency of the United States;

(11) include in State voting instructions express information concerning the type or types of writing instruments which may be used to mark the absentee ballot, preferably pen or indelible pencil; and

(12) provide that absentee ballots will be available for mailing to the applicant as soon as practicable before the last date on which such ballot will be counted.

(Aug. 9, 1955, ch. 656, title I, § 102, 69 Stat. 584, amended June 18, 1968, Pub. L. 90-344, § 1(1), 82 Stat. 181.)

## CODIFICATION

Section was formerly classified to section 1452 of Title 50, War and National Defense.

## AMENDMENTS

1968—Ch. (10). Pub. L. 90-344 added heads of departments or agencies of the United States and civilian employees designated by the head of any department or agency of the United States to the recommended list of persons authorized to administer and attest to oaths as required by state law.

## § 1973cc-2. Statistical data.

It is recommended that each of the several States make available to the officer designated by the President under section 1973cc-11 of this title appropriate statistical data to assist him in compiling comprehensive information of operations under this subchapter. (Aug. 9, 1955, ch. 656, title I, § 103, 69 Stat. 585.)

## CODIFICATION

Section was formerly classified to section 1453 of Title 50, War and National Defense.

## § 1973cc-3. Personnel residing on military installations; acquisition of legal residence for voting purposes.

It is recommended that each of the several States permit any person covered by section 1973cc(1) of this title who is otherwise fully qualified to register and vote in the State to acquire legal residence in that State, notwithstanding his residence on a military installation, and to register and vote in local, State, and national elections. (Aug. 9, 1955, ch. 656, title I, § 104, as added June 18, 1968, Pub. L. 90-344, § 1(2), 82 Stat. 181.)

## CODIFICATION

Section was formerly classified to section 1454 of Title 50, War and National Defense.



# TITLE 42.—THE PUBLIC HEALTH AND WELFARE

## PART II.—RESPONSIBILITIES OF FEDERAL GOVERNMENT

§ 1973cc-11. Presidential designee to coordinate and facilitate actions to discharge Federal responsibilities; report.

The President is authorized to designate, with provision for redelegation, the head (hereinafter referred to as the Presidential designee) of any executive department or agency to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under this subchapter. The Presidential designee is authorized to request from other executive departments and agencies such assistance as he deems necessary to effectuate the purposes of this subchapter, and shall submit a report to the President and to the Congress in odd-numbered years. Such report shall cover the administration of Federal responsibilities authorized under this part, the progress of the States in carrying out the recommendations contained in part I of this subchapter, statistical data relating to absentee voting, and such other information as the Presidential designee may consider appropriate. (Aug. 9, 1955, ch. 656, title II, § 201, 69 Stat. 585.)

### CODIFICATION

Section was formerly classified to section 1451 of Title 50, War and National Defense.  
EX. ORD. NO. 10648. DESIGNATION OF SECRETARY OF DEFENSE AS COORDINATOR

Ex. Ord. No. 10648, Nov. 22, 1955, 20 F.R. 8681, provided:

1. The Secretary of Defense is hereby designated as the official to coordinate and facilitate such actions as may be required to discharge Federal responsibilities under the Federal Voting Assistance Act of 1955 [this subchapter].
2. In order to effectuate the purposes of the said act, the Secretary of Defense is hereby authorized to delegate any or all of the functions, responsibilities, powers, authority, or discretion devolving upon him in consequence of this order to any person or persons within the Department of Defense.

DWIGHT D. EISENHOWER.

### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973cc-2 of this title.

§ 1973cc-12. Current absentee voting information.

The Presidential designee shall request, annually or more often when appropriate, each State to furnish him with current absentee voting information for such State. Such information shall include election dates, officers to be elected, constitutional amendments, and other proposals to be voted on, absentee registration and voting procedures, and other relevant data. As soon as possible after receipt of such information, he shall furnish it to the departments and agencies of the executive branch affected by this subchapter. Such departments and agencies are authorized to reprint and distribute such information to the extent necessary. (Aug. 9, 1955, ch. 656, title II, § 202, 69 Stat. 586.)

### CODIFICATION

Section was formerly classified to section 1462 of Title 50, War and National Defense.

§ 1973cc-13. Cooperation of Government officials; drafts of state legislation; printing and transmitting of post cards.

All Government officials shall, to the extent practicable and compatible with their primary respon-

sibilities, cooperate with the Presidential designee in carrying out the purposes of this subchapter. All such officials shall, as far as practicable, take all reasonable measures to expedite, transmit, deliver, and return post cards, ballots, envelopes, and instructions for voting procedures mailed to or by persons to whom this subchapter is applicable. In addition, and as requested by the Presidential designee, it shall be the duty of—

(1) the Attorney General to cooperate and advise with the Council of State Governments in the formulation of drafts of State legislation designed to implement the recommendations for State action contained in this subchapter;

(2) the Administrator of General Services to cause to be printed and distributed post cards for use in accordance with the provisions of this subchapter. Such post cards shall be delivered by the department or agency concerned to persons to whom this subchapter is applicable for use at any general election at which electors for President and Vice President or Senators and Representatives are to be voted for. For use in such elections, post cards shall be in the hands of the persons concerned not later than August 15 before the election if they are outside the territorial limits of the United States and not later than September 15 before the election if they are inside the territorial limits of the United States. To the extent practicable and compatible with other operations, post cards shall also be made available at appropriate times to such persons for use in other general, primary, and special elections; and

(3) the Postmaster General and the heads of the departments and agencies concerned, where practicable and compatible with their operations, to facilitate the transmission of balloting material to and from persons to whom this subchapter is applicable. Ballots executed outside the United States by persons to whom this subchapter is applicable shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

(Aug. 9, 1955, ch. 656, title II, § 203, 69 Stat. 586, amended June 18, 1968, Pub. L. 90-344, § 1(3), 82 Stat. 181.)

### CODIFICATION

Section was formerly classified to section 1463 of Title 50, War and National Defense.

### AMENDMENTS

1968—C1. (2). Pub. L. 90-344 substituted provisions that post cards shall be delivered and in the hands of the persons concerned not later than August 15 if they are without the territorial limits of the United States and not later than September 15 if they are within the territorial limits of the United States for provisions that such post cards shall, wherever practicable and compatible with other operations, be made available to the persons concerned by the specified dates.

§ 1973cc-14. Form and content of post card application.

The form of the Federal post card application shall be as follows:

- (a) The cards shall be approximately nine and one-half by four and one-eighth inches in size.

(b) Upon one side, perpendicular to the long dimension of the card, there shall be printed in black type the following:

**FILL OUT BOTH SIDES OF CARD**  
**POST CARD APPLICATION FOR ABSENTEE BALLOT**

State or Commonwealth of \_\_\_\_\_  
(Full in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:

(GENERAL) (PRIMARY)\* (SPECIAL) ELECTION  
(Strike out inapplicable words)

(2)\* If a ballot is requested for a primary election, print your political party affiliation or preference in this box:

(If primary election is secret in your State, do not answer)

(3) I am a citizen of the United States, eligible to vote in above State, and am:

- a. A member of the Armed Forces of the United States ☐
- b. A member of the merchant marine of the United States ☐
- c. A citizen of the United States temporarily residing outside of the territorial limits of the United States and the District of Columbia ☐
- d. A spouse or dependent of a person listed in (a) or (b) above ☐
- e. A spouse or dependent residing with or accompanying a person described in (c) above ☐

(4) I was born on \_\_\_\_\_  
(Day) (Month) (Year)

(5) For \_\_\_\_\_ years preceding the above election my home (not military) residence in the above State has been \_\_\_\_\_

(Street and number or rural route, etc.)

in the county or parish of \_\_\_\_\_  
The voting precinct or election district for this residence is \_\_\_\_\_

(Enter if known)

(6) Remarks: \_\_\_\_\_

(7) Mail my ballot to the following official address:  
For those assigned in the U.S.:

(Unit (Co., Sq., Trp., Bn., etc.), Govt. Agency,  
or Office)

(Military Base, Station, Camp, Fort, Ship, Airfield,  
etc.)

For those assigned elsewhere:

(APO or FPO number)

(8) I am NOT requesting a ballot from any other State and am not voting in any other manner in this election, except by absentee process,

and have not voted and do not intend to vote in this election at any other address:

(9) \_\_\_\_\_  
(Signature or person requesting ballot)

(10) \_\_\_\_\_  
(Full name, typed or printed with rank or grade,  
and service number)

(11) Subscribed and sworn to before me on \_\_\_\_\_  
(Day, month, and year)

\_\_\_\_\_  
(Signature of official administering oath)

\_\_\_\_\_  
(Typed or printed name of official  
administering oath)

\_\_\_\_\_  
(Title or rank, service number, and organization of  
administering official)

**INSTRUCTIONS**

- A. Before filling out this form see your voting officer in regard to the voting laws of your State and absentee registration and voting procedure.
- B. Type or print all entries except signatures. **FILL OUT BOTH SIDES OF CARD.**
- C. Address card to proper State official. Your voting officer or commanding officer will furnish you his title and address.
- D. Mail card as soon as your State will accept your application.
- E. NO postage is required for the card.

(c) Upon the other side of the card there shall be printed in red type the following:

**FILL OUT BOTH SIDES OF THE CARD**

FREE of U.S. Postage Including Air Mail
Official Mailing Address

**OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL**

To: \_\_\_\_\_  
(Title of Election Official)

\_\_\_\_\_  
(County or Township)

\_\_\_\_\_  
(City or Town, State)

(Aug. 9, 1955, ch. 656, title II, § 204, 69 Stat. 586, amended June 18, 1963, Pub. L. 90-343, § 2, 82 Stat. 181; June 18, 1968, Pub. L. 90-344, § 1(4)-(6), 82 Stat. 182.)

**CODIFICATION**

Section was formerly classified to section 1464 of Title 50, War and National Defense.

**AMENDMENTS**

1968—Subsec. (b) (3) (c). Pub. L. 90-343, § 2, substituted "A citizen of the United States temporarily residing outside of the territorial limits of the United

States and the District of Columbia" for "A member of a religious or welfare organization assisting servicemen".

Subsec. (b) (3) (d). Pub. L. 90-343, § 2, substituted "A spouse or a dependent of a person listed in (a) or (b) above" for "A civilian employed by the United States Government outside the United States (continental)".

Subsec. (b) (3) (e). Pub. L. 90-343, § 2, substituted "A spouse or dependent residing with or accompanying a person described in (c) above" for "A spouse or dependent of a person listed in (a), (b), or (c) above."

Subsec. (b) (3) (f). Pub. L. 90-343, § 2, struck out subsec. (b) (3) (f) which made provision for a spouse or dependent residing with a civilian employed by the United States Government outside of the (continental) United States.

Subsec. (b) (5). Pub. L. 90-344, § 1(4), added the provision for insertion of the applicant's county or parish.

Subsec. (b) (7). Pub. L. 90-344, § 1(5), substituted provisions differentiating between the style of address for persons assigned in the United States and persons assigned elsewhere for provisions setting out a single style of address for all applicants.

Subsec. (c). Pub. L. 90-344, § 1(6), substituted provisions for the official mailing address of the applicant for provisions for the name, unit, government agency, or office, military base, station, ship, or office, street number, APO or FPO number, and city, postal zone, and state of the applicant.

#### § 1973cc-15. Post card for election for Members of Congress.

The previously authorized Federal post card form shall be utilized prior to and in connection with the election for Members of Congress next ensuing after August 9, 1955, and the Presidential designee shall initiate action to make such forms available to departments and agencies having a need therefor. Thereafter only the post card form authorized in this subchapter shall be utilized. (Aug. 9, 1955, ch. 656, title II, § 205, 69 Stat. 588.)

#### CODIFICATION

Section was formerly classified to section 1465 of Title 50, War and National Defense.

#### PART III.—GENERAL PROVISIONS

#### § 1973cc-21. Definitions.

As used in this subchapter—

(1) The term "Armed Forces" means the uniformed services as defined in section 231 of Title 37.

(2) The term "members of the merchant marine of the United States" means persons (other than members of the Armed Forces) employed as officers or members of crews of vessels documented under the laws of the United States, or of vessels owned by the United States, or of vessels of foreign-flag registry under charter to or control of the United States, and persons (other than members of the Armed Forces) enrolled with the United States for employment, or for training for employment, or maintained by the United States for emergency relief service, as officers or members of crews of any such vessels; but does not include persons so employed, or enrolled for such employment or for training for such employment, or maintained for such emergency relief service, on the Great Lakes or the inland waterways.

(3) The term "dependent" means any person who is in fact a dependent.  
(Aug. 9, 1955, ch. 656, title III, § 301, 69 Stat. 588.)

#### REFERENCES IN TEXT

Section 231 of Title 37, referred to in subd. (1), was repealed by Pub. L. 87-649, § 14, Sept. 7, 1962, 76 Stat.

499, and is now covered by sections 101, 401, and 420 of Title 37, Pay and Allowances of the Uniformed Services.

#### CODIFICATION

Section was formerly classified to section 1471 of Title 50, War and National Defense.

#### DISTRICT OF COLUMBIA

Section 2(c) of Pub. L. 87-389, Oct. 4, 1961, 75 Stat. 820, provided that: "For the purposes of the Federal Voting Assistance Act of 1955 (69 Stat. 584) [this subchapter] the word 'State' shall be deemed to include the District of Columbia."

#### § 1973cc-22. Free postage.

Official post cards, ballots, voting instructions, and envelopes referred to in this subchapter, whether transmitted individually or in bulk, shall be free of postage, including air-mail postage, in the United States mails. (Aug. 9, 1955, ch. 656, title III, § 302, 69 Stat. 588.)

#### CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

#### § 1973cc-23. Prevention of fraud and coercion.

Every individual concerned with the administration of this subchapter shall take all necessary steps to prevent fraud, to protect voters against coercion of any sort, and to safeguard the integrity and secrecy of ballots cast. (Aug. 9, 1955, ch. 656, title III, § 303, 69 Stat. 588.)

#### CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

#### § 1973cc-24. Acts done in good faith.

No act done in good faith under this subchapter by a person serving in or with the Federal or military service of the United States in the exercise of his judgment as to what was practicable and compatible with military, merchant marine, or other Federal governmental operations, shall constitute a violation of any provision of law relating to the elective franchise. (Aug. 9, 1955, ch. 656, title III, § 304, 69 Stat. 589.)

#### CODIFICATION

Section was formerly classified to section 1472 of Title 50, War and National Defense.

#### § 1973cc-25. Undue influence; free discussion.

It shall be unlawful for any commissioned, non-commissioned, warrant, or petty officer in the Armed Forces (1) to attempt to influence any member of the Armed Forces to vote or not to vote for any particular candidate, or (2) to require any member of the Armed Forces to march to any polling place or place of voting, but nothing in this subchapter shall be deemed to prohibit free discussion regarding political issues or candidates for public office. (Aug. 9, 1955, ch. 656, title III, § 305, 69 Stat. 589.)

#### CODIFICATION

Section was formerly classified to section 1475 of Title 50, War and National Defense.

#### § 1973cc-26. Appropriations.

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this subchapter. (Aug. 9, 1955, ch. 656, title III, § 308, 69 Stat. 589.)